

# Social worker: Bernadette Thomas

## Registration number: SW106864

### Fitness to Practise

### Final Order Review Meeting

|                             |                                                         |
|-----------------------------|---------------------------------------------------------|
| Date of meeting:            | 28 February 2023                                        |
| Meeting venue:              | Remote meeting                                          |
| Final order being reviewed: | Suspension order – (expires 26 April 2023)              |
| Hearing Outcome:            | Impose a removal order upon expiry of the current order |

### Introduction and attendees:

1. This is the first review of a final suspension order originally imposed for a period of 12 months by a panel of adjudicators on 27 April 2022.
2. Ms Thomas did not attend and was not represented.
3. Social Work England was represented by Capsticks LLP and their written submissions are set out within the notice of hearing letter.
4. The panel of adjudicators conducting this review (the “**panel**”) and the other people involved in it were as follows:

| Adjudicators    | Role                      |
|-----------------|---------------------------|
| Frank Appleyard | Chair                     |
| Linda Norris    | Social worker adjudicator |

| Hearings team/Legal adviser | Role                     |
|-----------------------------|--------------------------|
| Natasha Quainoo             | Hearings officer         |
| Heather Hibbins             | Hearings support officer |
| Neville Sorab               | Legal adviser            |

### Service of notice:

5. The panel had careful regard to the documents contained in the final order review hearing service bundle as follows:
  - A copy of the Notice of Hearing dated 26 January 2023 addressed to Ms Thomas at her email address as it appears on the Social Work England Register;
  - An extract from the Social Work England Register detailing Ms Thomas’ registered email address; and
  - A copy of a signed Statement of Service, on behalf of Social Work England, confirming that on 26 January 2023 – more than seven days before this hearing – the writer sent by email to Ms Thomas at her registered email address: Notice of Hearing and related documents.
6. The panel accepted the advice of the legal adviser in relation to service of notice. This included reference to Rules 16, 44 and 45 of Social Work England’s Fitness to Practise Rules 2019 (as amended) (the “**FTP Rules 2019**”).

7. Having had regard to Rules 16, 44 and 45 of the FTP Rules 2019 and all of the information before it in relation to the service of notice, the panel was satisfied that notice of this hearing had been served on Ms Thomas in accordance with Rules 44 and 45 of the FTP Rules 2019.

#### Proceeding with the interim order review as a meeting:

8. The notice of final order review hearing informed Ms Thomas that the review would take place electronically. The notice stated:

*"If you would like to attend before the adjudicators in order to make oral submissions, please confirm your intention by no later than 4pm on 9 February 2023. Unless we hear from you to the contrary, we shall assume that you do not want to attend a hearing and Social Work England may decide to deal with the review as a meeting. If Social Work England do hold a meeting, the adjudicators will be provided with a copy of this letter setting out Social Work England's submissions and a copy of any written submissions you provide."*

9. The panel received no information to suggest that Ms Thomas had responded to the notice of final order review hearing.
10. The panel accepted the advice of the legal adviser in relation to the factors it should take into account when considering whether it was fair and appropriate to proceed with the review in the absence of Ms Thomas. This included reference to the cases of *R v Jones [2003] UKPC*; *General Medical Council v Adeogba [2016] EWCA Civ 162*. The panel also took into account Social Work England's guidance "*Service of notices and proceeding in the absence of the social worker*". The panel heard and accepted the advice of the legal adviser with regard to Rule 16(c) of the Fitness to Practise Rules 2019 (as amended) which provides:

*"Where the registered social worker does not state within the period specified by the regulator whether they intend to attend before the regulator, the regulator may determine whether to make an order by means of a meeting."*

11. The panel was satisfied that it would be fair and appropriate to conduct the review in the form of a meeting in accordance with Rule 16(c) on the basis that:
  - a. Ms Thomas has had an opportunity to make submissions within the time periods specified under Rule 16(b) of the FTP Rules 2019. Part 2 of Social Work England's document titled "*Removal from the Register and Registration Appeals*" is not applicable where – as set out in the Notice of Hearing – Social Work England is minded to remove a registrant's entry in the register under section 14(1)(b) of the Social Workers Regulations 2018;

- b. Ms Thomas had notice of the intention of Social Work England to seek a Removal Order;
- c. Ms Thomas did not engage with the final hearing, has not engaged since the final hearing or with the order, and has not indicated any intention to engage further in the future. The panel does not consider that an adjournment would result in Ms Thomas' future attendance, and it would therefore not be in the public interest to adjourn the hearing;
- d. The panel has no further questions for Social Work England; and
- e. The continuation of the meeting was important to consider the protection of the public.

### Review of the current order:

- 12. This final order review hearing is taking place under Paragraph 15(1) of Schedule 2 of The Social Workers Regulations 2018 (as amended) and Social Work England's Fitness to Practise Rules 2019 (as amended).
- 13. The current order is due to expire at the end of 26 April 2023.

### The allegations found proved which resulted in the imposition of the final order were as follows:

- 1. *Whilst registered as a Social Worker you failed in your duty to safeguard a vulnerable adult between 8 August 2019 and 5 November 2019.*
- 2. *By reason of misconduct, your fitness to practise as a Social Worker is impaired.*

### The final hearing panel on 30 March 2022 determined the following with regard to impairment:

- 60. *"The panel considered the Social Worker's current fitness to practise firstly from the perspective of her ability to work safely and effectively as a social worker and then from the perspective of the wider public interest.*
- 61. *The Social Worker undermined her professional standing and the social work profession as a whole by failing to safeguard Service User A in circumstances where she knew, or ought to have known, that urgent intervention was*

*required. The Social Worker's inaction was sustained for an unacceptably long period of time and significantly breached the high standards expected of registered social workers. The repeated failure to take appropriate action fundamentally undermines social work professionalism.*

- 62. The panel recognised that the Social Worker's misconduct is capable of being remediated provided there is evidence of meaningful reflection and a willingness to take appropriate steps to ensure that the risk of repetition is sufficiently low.*
- 63. The panel noted that the Social Worker, in the statement she provided to the Council in 2020, stated that she felt 'overwhelmed and sometimes out of [her] depth' and she acknowledged that in relation to Service User A she had not met the standards that were expected of her. However, the statement was not prepared for the purposes of these proceedings which, at least in part, explains why the content of that statement focuses on the Social Worker's views on the working environment and the impact her private life was having on her ability to work effectively as a social worker. She describes how she became ill [PRIVATE] She stated that she was unable to manage with both home and work and eventually gave up on 'trying to cope with everything.'*
- 64. The panel acknowledged that during the Council's internal investigation the Social Worker demonstrated a degree of insight and expressed regret. However, there has been no engagement from the Social Worker during these proceedings. Therefore, there is no evidence before the panel that the Social Worker has developed any further insight to the extent that she appreciates the gravity of the panel's findings. There is no evidence of reflection and no apology. Nor is there any evidence before the panel that she appreciates the impact of her behaviour on her former employer, the family of Service User A, her professional standing as a registered social worker and the wider profession as a whole. There is also no explanation as to how the Social Worker would behave in the future and no assurance that she has taken appropriate steps to reduce the risk of repetition. In the absence of any meaningful insight and steps taken towards remediation, the panel concluded that there is a real risk of repetition.*
- 65. Whilst the panel acknowledged that the failure to safeguard Service User A relates to a discrete period, there is no testimonial evidence before the panel to demonstrate that the Social Worker is currently able to work safely and effectively as a social worker.*

66. *In these circumstances, the panel concluded that the risk of repetition is high and, for the reasons stated above, there is no evidence that during the intervening period the risk has been reduced. In the event of repetition, service users would be exposed to an unwarranted risk of harm. As a consequence, the panel concluded that the Social Worker's ability to practise safely and effectively is currently impaired.*
67. *In considering the wider public interest the panel had regard to the need to promote and maintain public confidence in the profession and to promote and maintain proper standards of conduct and behaviour.*
68. *The panel was mindful of the duty to uphold proper standards of conduct and behaviour and maintain public trust and confidence in the profession. The Social Worker's conduct and behaviour put Service User A at risk of harm, breached a fundamental tenet of the profession and, in so doing, brought the profession into disrepute. The panel concluded that a reasonable and well-informed member of the public would be extremely concerned by the Social Worker's misconduct. In these circumstances, the panel concluded that a finding of impairment is required to publicly declare that it is unacceptable for a registered social worker to disregard her professional responsibility to safeguard a vulnerable adult at risk of neglect.*
69. *The panel took the view that public trust and confidence in the profession would be significantly undermined if a finding of impairment of fitness to practise was not made, given the nature and seriousness of the Social Worker's failure to safeguard Service User A and in the absence of any remediation.*
70. *Therefore, the panel concluded that the social worker's current fitness to practise is also impaired based on the wider public interest.*

The final hearing panel on 30 March 2022 determined the following with regard to sanction:

75. *"The panel acknowledged that the Social Worker mentioned during the supervision session with her line manager, Ms KM, which took place on 15 August 2019, that she had a 'wobble' with regard to her current caseload. The Social Worker also stated that she was behind on her paperwork and that this was causing her stress. There is also evidence, based on the transcript of Ms KM's interview during the internal disciplinary process, that she was aware that the Social Worker was experiencing difficulties in her private life. [PRIVATE] Ms KM went on to state during the interview that:*

*‘[The Social Worker worked in a strengths based, person centred manner, she is an experienced member of the team, was keen to nurture our student at the time and was keen to enrol on the Practice Educator course. [The Social Worker] is sadly missed by all the team. ...[M]y instinct now is to want to nurture [the Social Worker], to support her back into the team, and to develop her as a professional.’*

*Ms KM reiterated these positive features during her oral evidence and stated that the MDT spoke highly of the Social Worker. The panel also noted the content of the statement the Social Worker provided during the internal disciplinary process with regard to her personal issues.*

76. *The panel accepted that during the relevant period the Social Worker was experiencing a number of stressors including her workload, [PRIVATE] The panel acknowledged that the cumulation of the work related and the personal stress factors are likely to have adversely affected the Social Worker’s judgment. The panel was mindful that these factors provide the context within which the appropriate sanction, if any, should be assessed.*
77. *The panel identified the following as mitigating factors:*
- *The Social Worker has no previous disciplinary history and appeared to be working competently until the concerns relating to Service User A were raised. The panel noted that Ms KM remained supportive of the Social Worker and therefore there is no indication that the failures in respect of Service User A cannot be remedied.*
  - *The Social Worker was working in a new team and in a new role.*
  - *Although the Social Worker did not have an excessive caseload there were a number of factors (as described in paragraph 63 above) which in combination impacted on her ability to work safely and effectively as a social worker.*
  - *The Social Worker expressed regret and remorse in the witness statement she provided during the internal disciplinary investigation which the panel accepted as genuine.*
78. *The panel concluded that the aggravating features are as follows:*
- *The Social Worker had multiple opportunities to: (i) take appropriate steps to safeguard Service User A who was at risk of neglect; or (ii) alert her line manager, or another senior member of staff, if she was unable to take action herself. The panel noted that the supervision record dated 15 August 2019 records that the Social Worker found her*

*colleagues to be “very supportive” when she had the “wobble’ with regard to her caseload and that she was reminded that she did not need to wait until supervision to discuss issues or concerns.*

- *Service User A was particularly vulnerable as she lacked capacity, had particular care needs, and appeared to have been neglected by a member of her family. The risk factors were obvious, or ought to have been obvious, from the outset.*
- *Assessing risk and responding appropriately is fundamental to safe and effective practice as a social worker.*

### *Suspension Order*

87. *The panel, having determined that a Conditions of Practice Order would not be appropriate went on to consider whether to impose a Suspension Order.*
88. *The panel noted that a Suspension Order would reaffirm to the social worker, the profession, and the public the standards expected of a registered social worker. It would also prevent the social worker from practising during the suspension period, which would therefore provide temporary protection to the public and the wider public interest. Although the Social Worker has demonstrated only limited insight into her behaviour and has not taken the opportunity to persuade the panel that meaningful lessons have been learnt, the panel was satisfied that a period of suspension is the proportionate and appropriate sanction to mark the seriousness of the Social Worker’s failings.*
89. *In these circumstances, the panel concluded that a Suspension Order would be sufficient to protect service users, uphold standards of conduct and behaviour and maintain public trust in the profession.*
90. *The panel noted that a Removal Order is a sanction of last resort reserved for those categories of cases where there are no other means of protecting the public and the wider public interest. The panel concluded that the Social Worker’s misconduct does not fall into this category because her failings relate to a single service user, relate to a discrete period of time and are capable of being remedied.*
91. *The panel, in concluding that a Suspension Order is the appropriate sanction, balanced the wider public interest against the Social Worker’s interests. The panel noted that the Social Worker may upon reading this determination wish to return to work as a social worker at some point in the future (assuming she has not already made that decision). Therefore, the panel took*

*into account the consequential personal and professional impact a Suspension Order may have upon the Social Worker but concluded that these considerations were significantly outweighed by the panel's duty to give priority to the wider public interest.*

92. *The panel decided that the appropriate and proportionate order is a Suspension Order.*

93. *The panel determined that the shortest period of suspension it could impose is 12 months. This period is commensurate with the need to publicly mark the seriousness of the Social Worker's failings and the minimum time it will take for her to demonstrate that she is able to return to the register unrestricted. The panel noted that the Social Worker has not practised her profession for approximately 3 years and will need time to demonstrate that she has maintained her skills and knowledge or has brought them up to date."*

#### **Social Work England submissions:**

15. The panel received written submissions from Social Work England, setting out the following:

*"Subject to any further engagement by the Social Worker with the review process and receipt of evidence of insight and remediation, Social Work England will invite the Panel to find that the Social Worker's fitness to practise remains impaired and to impose a Removal Order.*

*The previous Panel recognised that the Social Worker lacked sufficient insight, and to date no further evidence of remediation or reflection has been provided. The Social Worker has not provided any evidence in support of their engagement with the proposed recommendations given at the final*

*hearing and therefore has not provided any assurance to the Panel that their fitness to practise is no longer impaired.*

*The Social Worker did not engage with the final hearing, they have not engaged since the hearing, or with the order, they have not indicated any intention to engage further in the future. The Social Worker has previously stated they do not wish to return to social work and are pursuing a different career. It is therefore submitted that a further period of suspension will not result in remediation and a return to social work practice.*

*Social Work England submit therefore on the basis of the information to date, that a Removal Order is now appropriate and proportionate."*

### Social worker submissions:

16. Ms Thomas did not attend the hearing to provide evidence, nor provided written submissions prior to the hearing for the panel's consideration.

### Panel decision and reasons on current impairment:

17. In considering the question of current impairment, the panel undertook a comprehensive review of the final order in light of the current circumstances. It took into account the decision of the previous panel. However, it has exercised its own judgement in relation to the question of current impairment. The panel also took into account Social Work England's *"Impairment and sanctions guidance"*.
18. The panel had regard to all of the documentation before it, including the decision and reasons of the final hearing panel. The panel also took account of Social Work England's submissions.
19. The panel heard and accepted the advice of the legal adviser. In reaching its decision, the panel was mindful of the need to protect the public and the wider public interest in declaring and upholding proper standards of behaviour and maintain public confidence in the profession.
20. The panel first considered whether Ms Thomas' fitness to practise remains impaired. The panel did not have any evidence before it:
  - a. of Ms Thomas engaging with Social Work England since the Final Hearing;
  - b. of insight from Ms Thomas;
  - c. that the risk to service users have been reduced since the Final Hearing; or
  - d. of training or remediation by Ms Thomas.
21. Consequently, the panel cannot determine whether there has been any change in Ms Thomas' impairment since the Final Hearing. The panel considers that Ms Thomas continues to be impaired; there is a risk that, should she practice, Ms Thomas may put service users at risk of harm and bring the social work profession into disrepute.

### Decision and reasons:

22. Having found Ms Thomas' fitness to practise to be currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel had regard to the Social Work England submissions, along with all the information and accepted the advice of the legal adviser.
23. The panel was mindful that the purpose of any sanction is not to punish Ms Thomas, but to protect the public and the wider public interest. The public interest includes maintaining public confidence in the profession and Social Work England as its regulator and by upholding

proper standards of conduct and behaviour. The panel applied the principle of proportionality by weighing Ms Thomas' interests with the public interest and by considering each available sanction in ascending order of severity.

#### No Action

24. The panel concluded that, in view of the nature and seriousness of Ms Thomas' impairment which has not been remedied, and in the absence of exceptional circumstances, it would be inappropriate to take no action. Furthermore, it would be insufficient to protect the public, maintain public confidence and uphold the reputation of the profession.

#### Advice or Warning

25. The panel then considered whether to issue advice or a warning. The panel noted that neither of these sanctions would restrict Ms Thomas' ability to practise and is therefore not appropriate where there is a current risk to public safety. In any event, the deficiencies in Ms Thomas' practise had the potential to have wide-ranging adverse consequences and therefore some restriction on her practise is required. Therefore, the panel concluded that issuing advice or a warning would be inappropriate and insufficient to meet the public interest.

#### Conditions of Practice Order

26. The panel went on to consider a conditions of practice order. The panel took the view that Ms Thomas' lack of engagement meant it could not form workable conditions which could balance Ms Thomas being able to practice and remove the risk to public safety.

#### Suspension Order

27. Having determined that a conditions of practice order would not be appropriate, the panel considered whether a suspension order was appropriate. The panel was of the view that a suspension order would protect the public in that Ms Thomas would be precluded from practising as a social worker. However, it further considered whether an extension of a suspension order would be in the public interest and maintain public confidence in the social work profession, taking into account Ms Thomas' non-engagement.
28. Ms Thomas had knowledge of the steps that she needed to take in order to facilitate her return to social work as this was set out at paragraph 94 of the final hearing decision and in a letter from Social Work England to her, dated 05 April 2022. The panel considered that since the Final Hearing – eleven-months ago – Ms Thomas has not: engaged with Social Work England; provided any testimonials; or provided any evidence of insight, training or remediation. Further, Ms Thomas failed to engage with the Final Hearing and has set out that she has no intention to return to social work. The panel has not seen any evidence demonstrating that Ms Thomas has changed her mind and wishes to return to social work.
29. As a result, the panel considered that Ms Thomas' intention and lack of engagement would result in an indefinite continuation of a suspension order, which will require Social Work

England to facilitate regular reviews. The panel consider it more prudent, taking into account the time and resources required for regular reviews, to impose a removal order.

### Removal Order

30. The panel noted that a removal order is a sanction of last resort where there is no other means of protecting the public or the wider public interest. The panel took the view that a removal order would protect the public and the wider public interest and align with the interests of Ms Thomas. Accordingly, the decision of the panel is to make a removal order. The panel notes that should Ms Thomas wish to return to social work, there is a prescribed process by which she could be restored on the register (section 15 of the Social Workers Regulations 2018).

### Right of appeal:

31. Under Paragraph 16(1)(b) of Schedule 2 of The Social Workers Regulations 2018 (as amended), the social worker may appeal to the High Court against:

- a. the decision of adjudicators:
  - i. to make an interim order, other than an interim order made at the same time as a final order under paragraph 11(1)(b),
  - ii. not to revoke or vary such an order,
  - iii. to make a final order,
- b. the decision of the regulator on review of an interim order, or a final order, other than a decision to revoke the order.

32. Under Paragraph 16(2) of Schedule 2 of The Social Workers Regulations 2018 (as amended) an appeal must be filed before the end of the period of 28 days beginning with the day after the day on which the social worker is notified of the decision complained of.

33. Under Paragraph 15(1A) of Schedule 2 of The Social Workers Regulations 2018 (as amended), where a social worker appeals against a decision made under sub-paragraph (1), the decision being appealed takes effect from the date specified in that sub-paragraph notwithstanding any appeal against that decision.

34. This notice is served in accordance with Rules 44 and 45 of the FTP Rules 2019 (as amended).

### Review of final orders:

35. Under regulation 15(1), 15(2) and 15(3) of Schedule 2 of The Social Workers Regulations 2018 (as amended):

- 15(1) The regulator must review a suspension order, or a conditions of practice order, before its expiry.

- 15(2) The regulator may review a final order where new evidence relevant to the order has become available after the making of the order, or when requested to do so by the social worker.
- 15(3) A request by the social worker under sub-paragraph (2) must be made within such period as the regulator determines in rules made under Regulation 25(5).

36. Under Rule 16(aa) of the Fitness to Practise Rules 2019 (as amended), a social worker requesting a review of a final order under paragraph 15 of Schedule 2 must make the request within 28 days of the day on which they are notified of the order.

### The Professional Standards Authority

37. Please note that in accordance with section 29 of the National Health Service Reform and Health Care Professions Act 2002, a review decision made by Social Work England's panel of adjudicators can be referred by the Professional Standards Authority ("the PSA") to the High Court. The PSA can refer this decision to the High Court if it considers that the decision is not sufficient for the protection of the public. Further information about PSA appeals can be found on their website at:

<https://www.professionalstandards.org.uk/what-we-do/our-work-with-regulators/decisions-about-practitioners>