



Social Worker: Christiane Kouassi

Registration Number: SW123091

Fitness to Practise

Final Order Review Meeting:

Date of meeting: 14 April 2023

Meeting venue: Remote meeting

Final order being reviewed: Suspension order (expiring 16 June 2023)

Meeting Outcome: Removal order imposed with effect from the 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 20 May 2022.
2. Ms Kouassi 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.

Adjudicators	Role
Alexander Coleman	Panel Chair
Beverley Blythe	Social Worker Adjudicator

Hearings Team/Legal Adviser	Role
Kathryn Tinsley	Hearings Officer
Mollie Roe	Hearings Support Officer
Sean Hammond	Legal Adviser

Service of notice:

4. The panel of adjudicators had careful regard to the documents contained in the final order review service bundle as follows:
 - A copy of the notice of the final order review hearing dated 30 March 2023 and addressed to Ms Kouassi at their electronic mail ("email address") which they provided to Social Work England
 - An extract from the Social Work England Register as of 30 March 2023 detailing Ms Kouassi's registered email address; and
 - A copy of a signed statement of service, on behalf of Social Work England, confirming that on 30 March 2023 the writer sent by email to Ms Kouassi at the address referred to above: notice of hearing and related documents.
5. The panel accepted the advice of the legal adviser in relation to service of notice.
6. Having had regard to Rules 16, 44 and 45 of the Social Work England (Fitness to Practise) Rules 2019 (as amended) ("the Rules") 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 Kouassi in accordance with the Rules.

Proceeding with the final order review as a meeting:

7. The notice of final order review informed Ms Kouassi that the review would take place as a meeting. 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 4.30pm on 11 April 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.”

8. The panel received no information to suggest that Ms Kouassi had responded to the notice of final order review.
9. 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.”

10. The panel noted that Ms Kouassi did not engage at the final hearing of this matter and has not engaged with the Social Work England Case Review Team since the final suspension order was imposed on 20 May 2022. The panel noted that the final hearing panel was provided with a telephone attendance note of a conversation with Ms Kouassi on 04 May 2022 in which she stated that *“she had nothing to say”*, indicating a clear and settled intention not to participate in the fitness to practise proceedings against her. In these circumstances, and in the absence of any information to suggest that Ms Kouassi now wishes to engage in the process, the panel concluded that there would be no useful purpose in referring the review to a hearing.
11. Accordingly, 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).

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) (“the Regulations”) and Social Work England’s Fitness to Practise Rules 2019 (as amended) (“the Rules”).
13. Under Schedule 2, paragraphs 15(1) (a) to (d) of the Regulations, the panel may –
 - confirm the order.
 - with effect from the date on which the order would have expired, extend or further extend the period for which the order has effect, provided that the extension or further extension does not exceed three years from the date on which it is extended or further extended.

- with effect from the expiry of the order, make any order (“the new order”) which the case examiners or the adjudicators (as the case may be) could have made at the time they made the order, provided that the period for which the new order has effect does not exceed three years from the date on which it is made.
 - in the case of a suspension order, with effect from its expiry make a conditions of practice order with which the social worker must comply if they resume practice as a social worker at the end of the period of suspension specified in the order.
 - revoke the order with effect from the date of the review for the remainder of the period for which it would have had effect.
14. The decision will take effect from the date the previous final order expires (except for revocation, which will take effect immediately).
15. The current order is due to expire on 16 June 2023.

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

“1. Whilst working for Bexley Council, in 2019, you failed to safeguard looked after children in that you:

1.1 Did not conduct statutory visits as required in relation to 8 different children in your care; and

1.2 Recorded statutory visits that either did not take place at all, or did not take place as described in the records made.

2. ...

3. Your actions in regulatory concern (1) were dishonest.

In regulatory concern 1, your fitness to practise is impaired by way of your misconduct and/or lack of competence.”

The final hearing panel on 20 May 2022 determined the following with regard to impairment:

“124. Having found misconduct and lack of competence, the panel went on to consider whether Ms Kouassi’s fitness to practise is currently impaired.

125. In reaching its decision, the panel was mindful that the question of impairment is a matter of its professional judgement. The panel was required to determine whether Ms Kouassi’s fitness to practise is impaired as of today’s date.

126. The panel took into account all of the evidence that it had received during the proceedings, the submissions made by Ms Puri and the written submissions, the

written observations, and a testimonial from an employer (11 September 2020) provided by Ms Kouassi.

127. The panel took into account the Sanctions Guidance published by Social Work England and in particular pages 8 to 12 which outlined the factors to be taken into account when determining impairment.

128. The panel also took into account the guidance provided in Cohen v General Medical Council [2008] EWHC 581. The panel considered:

- (i) whether the Registrant's conduct was easily remediable;*
- (ii) whether it had been remedied; and*
- (iii) whether it was highly unlikely to be repeated.*

Misconduct

129. The panel recognised that dishonesty, while deeply troubling, may have a context or a background which might help to explain, though not excuse, the concerns. Dishonesty is difficult to remediate but in the panel's view, the process of remediation could be identified in a social worker who has attempted to address the reasons for acting in a dishonest manner.

130. The panel considered that whilst Ms Kouassi had made some admissions about her dishonesty during the investigative process, there had not been any material recognition by her of the extent of her misconduct, and the impact that it had on vulnerable service users, their families, and their carers/parents, and on her professional colleagues. The dishonesty found proved in this case was not easily remedied.

131. The panel had little evidence of remediation and noted that whilst Ms Kouassi had provided a written testimonial, the panel considered it not to be sufficiently up-to-date and did not reference that the author was aware of the ongoing regulatory proceedings. The panel also considered the level of insight shown by Ms Kouassi in her written engagement to be centred on herself. In particular, she did not address to any extent how her misconduct could have, and indeed did, put services users at risk of harm or the wider impact of her misconduct on the reputation of the profession. The panel was of the view that there could have been a real and significant risk of harm to the children she was responsible for as a result of her misconduct.

132. The panel considered and applied the following test borrowing from the Fifth Shipman Report and formulated in the High Court by Cox J in Council for Healthcare Regulatory Excellence v Nursing and Midwifery Council and Grant [2011] EWHC 927 (Admin) at paragraph 76:

“Do our findings of fact in respect of [Ms Kouassi’s] misconduct, ... show that her fitness to practise is impaired in the sense that she:

(a) has in the past acted and/or is liable to act in the future so as to put a [service user] or at unwarranted risk of harm; and/or

(b) has in the past brought and/or is liable in the future to bring the [social work] profession into disrepute; and/or

(c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the [social work] profession; and/or

(d) has in the past acted dishonestly and/or is liable to act dishonestly in the future?”

133. The panel was satisfied that Ms Kouassi’s misconduct, in this case, engages all four of the limbs in the Grant test. It therefore concluded that Ms Kouassi’s fitness to practise is impaired by reason of her misconduct.

Lack of competence

134. The panel decided that there was a high risk of repetition given that Ms Kouassi had not worked as a social worker for a considerable period of time and had not undergone relevant training to develop resilience and to therefore prevent similar behaviour occurring in the future.

135. The panel considered that there was an ongoing risk of harm to the public being caused by Ms Kouassi, because of the repeated fundamental failings to meet the required standard of skill expected of a social worker.

136. The panel decided that Ms Kouassi’s fitness to practise was impaired by reason of lack of competence.”

The final hearing panel on 20 May 2022 determined the following with regard to sanction:

“140. The panel reminded itself that the purpose of imposing a sanction is not to punish the social worker, but to protect the public including securing the wider public interest of maintaining trust and confidence in the profession. The panel’s objective was to consider what sanction, if any, was necessary in order to fully protect the public, applying the least restrictive but equally effective alternative in every case.

141. Before considering the individual options open to it, the panel identified what it considered to be the relevant aggravating and mitigating features in the case.

142. The panel had regard to paragraph 1 of the Sanctions Guidance which states:

“Social Work England’s overarching objective is to protect the public. We do so by protecting, promoting, and maintaining the health and well-being of the public; by promoting and maintaining public confidence in social workers in England; and by promoting and maintaining proper professional standards for social workers in England. Our fitness to practise powers enable us to deliver this overarching objective through proportionate sanctions where an individual social worker’s fitness to practise is impaired.”

143. The panel then went on to consider each of the available sanctions in ascending order of restrictiveness.

144. The panel first considered whether this was an appropriate case for it to take no further action, or to impose an advice or warning order. In the panel’s view, the misconduct found proved in this case was serious and involved dishonesty. The panel had identified a continuing risk to the public caused by Ms Kouassi’s continuing lack of insight. Ms Kouassi had not remediated her misconduct. The panel noted that these sanctions would place no active restriction on Ms Kouassi’s practice should she return to the profession. Accordingly, the panel concluded that to take no further action, or to impose an advice or warning order would be insufficient to protect the public and would fail to address the wider public interest concerns in this case.

145. The panel next considered the imposition of a conditions of practice order. The panel had regard to the Sanctions Guidance and noted that such orders are more commonly appropriate in cases involving errors in practice, a lack of competence, or ill-health. In this case as well as lack of competence, misconduct was found to have taken place over a period of at least 6 weeks and there was a dishonest construction and submission of wholly fictitious statutory visits. Children were placed at risk and disadvantage by this. Their statutory visits were missed and the effect, had matters not come to light, could have been that months may have passed before the next scheduled visit. Ms Kouassi had not demonstrated any depth of understanding or remorse or any commitment to act differently if the opportunity arose. The panel could have no confidence that Ms Kouassi would meaningfully engage with a conditions of practice order, given that the last meaningful engagement with Social Work England was September 2020.

146. The panel concluded that in all of these circumstances, it was not possible to formulate any workable conditions that would address this misconduct or adequately protect the public or address the wider public interest concerns.

147. The panel next gave consideration to the imposition of a suspension order. The panel noted that a suspension order would protect the public as it would temporarily

remove Ms Kouassi from the Social Work England register. The panel also noted that in suitable cases, a suspension order could also mark the wider public interest concerns, including upholding standards and maintaining confidence in the profession. The panel had regard to paragraph 96 of the Sanctions Guidance which states:

"...If the suspension is aimed primarily at maintaining confidence in the profession or setting the professional standards to be observed, then a sanction of suspension up to one year may be appropriate. Given the risk of deskilling, decision makers should consider whether a case warranting a period of suspension longer than one year on the grounds of public confidence might be more appropriately disposed of by means of a removal order."

148. The panel also had regard to paragraphs 106-109 of the Sanctions Guidance. In the panel's view paragraph 106 is of particular significance in this case. It provides: "Social workers are routinely trusted with access to people's homes, and highly sensitive and confidential information. They are also routinely trusted to manage budgets including scarce public resources. Any individual dishonesty is likely to threaten public confidence in the proper discharge of these responsibilities by all social workers."

149. The panel considered that these observations had direct relevance for Ms Kouassi's dishonest actions. She could have rearranged the statutory visits but instead created mistrust with the result that inevitably the trust in social workers held by service users and their families was diminished.

150. The impact of dishonesty was further set out at paragraph 109 of the guidance. "Evidence of professional competence cannot mitigate serious or persistent dishonesty. Such conduct is highly damaging to public trust in social workers and is therefore usually likely to warrant suspension or removal from the register."

151. The panel had particular regard to paragraph 97 of the Sanctions Guidance which reads:

"A removal order must be made where the adjudicators conclude that no other outcome would be enough to protect the public, maintain confidence in the profession or maintain proper professional standards for social workers in England. A decision to impose a removal order should explain why lesser sanctions are insufficient to meet these objectives."

152. Although the findings of misconduct are serious, the panel did not consider that, in all the circumstances, Ms Kouassi's failings are fundamentally incompatible with registration as a registered social worker. Although it was a sustained period of

dishonesty, the acts were committed at a very early stage in Ms Kouassi's professional career, during her ASYE year.

153. The panel consider that Ms Kouassi's misconduct is remediable, but she has yet to remediate it. She has still to develop sufficient insight into the misconduct. Therefore, the panel considers that a period of suspension is appropriate. The panel considers that a suspension order will reflect the right message to the profession of the standards that are expected of social workers. It will also reassure the public that action is being taken to uphold standards. Suspension of Ms Kouassi's registration for a period will not only protect the public but also allow her time to reflect on the issues and to develop insight into her misconduct and its effect on vulnerable service users and the wider public.

154. When considering the duration of the suspension order, the panel bore in mind that Ms Kouassi has already been out of practice for a period and therefore de-skilling becomes an issue. It had to balance this with the need to protect the public. It did not determine that the requirement to satisfy the wider public interest in marking and maintaining standards now required a period at the higher end of the range.

155. The panel decided that suspension for 12 months will allow time for Ms Kouassi to develop and demonstrate insight and prepare for a return to the profession. The suspension order will be reviewed shortly before its expiry by a panel of adjudicators.

156. At the review hearing, the panel may be assisted by the following:

- a. Ms Kouassi's attendance and engagement with the review process;*
- b. A reflective piece of writing demonstrating insight into the impact of her actions on service users, the confidence of the general public in the social work profession and identifying steps she has taken to remedy her failings;*
- c. References and testimonials from any employers or other relevant persons;*
- d. Evidence of Ms Kouassi keeping her knowledge and skills up to date;*
- e. Anything else that Ms Kouassi feels may assist her case.*

157. The panel did consider whether it should go further and order removal of Ms Kouassi's registration. However, having balanced the misconduct and impairment found on the one hand with Ms Kouassi's ability to remediate her misconduct and the lack of competence, the panel concluded that this was not a case where such a sanction was required. The panel concluded that removal was disproportionate and unnecessary."

Social Work England's submissions:

16. The panel noted the written submissions from Social Work England in the notice of hearing dated 30 March 2023 as follows:

"Social Work England invites the Panel to replace the Suspension with a Removal Order.

The Substantive Hearing Panel concluded that the Social Worker's conduct could potentially be remediable should the Social Worker develop sufficient insight into the misconduct. The Panel considered that a period of suspension would afford the Social Worker the opportunity to undertake further training and reflection.

To date, no evidence of engagement with the recommendations of the Panel has been submitted by the Social Worker. The Social Worker indicated prior to the final hearing that she would not further engage with the fitness to practise process, and she has not responded to any contact from the Case Review Team.

Accordingly, Social Work England submits that the Social Worker's fitness to practise remains impaired as at the Substantive Hearing. As a result of this, there remains a risk of repetition.

If the Social Worker submits evidence of engagement with the recommendations of the Panel subsequent to these submissions being served, and in advance of the hearing, then Social Work England reserves the right to review its position.

Absent further engagement, it is submitted that a Removal Order is now the appropriate and proportionate sanction."

Submissions on behalf of the social worker:

17. Ms Kouassi has not provided any written submissions or evidence for the consideration of the panel today.

Panel's decision and reasons on current impairment:

18. When 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 all of the material before it. This included a 51-page final order review hearing bundle and a 10-page service and supplementary evidence bundle. The panel had regard to the decision and reasoning of the final hearing panel on 16-20 May 2022 and to the written submissions from Social Work England.

19. The panel has exercised its own professional judgement in relation to the question of current impairment.
20. The panel heard and accepted the advice of the legal adviser. In particular, he referred the panel to the case of Khan v General Pharmaceutical Council [2016] UKSC 64, where it was identified that the focus of a review was upon the current fitness of a social worker to resume practice, judged in light of what she had or had not achieved since the date of sanction. That case also identified that the reviewing panel would note the particular concerns articulated by the original panel and seek to decide what steps, if any, the social worker had taken to allay them during the period of the sanction.
21. 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 maintaining public confidence in the profession.
22. The panel first considered whether Ms Kouassi's fitness to practise remains impaired.
23. The panel noted that the final hearing panel on 16-20 May 2022 found Ms Kouassi's fitness to practise impaired as a result of her misconduct and a lack of competence. The panel further noted that allegations found proved were very serious and involved significant capability issues as well as a period of misconduct that had occurred over a period of at least 6 weeks. Ms Kouassi was found to have dishonestly created and submitted records of wholly fictitious statutory visits. Vulnerable children were placed at risk and disadvantage by this. Their statutory visits were missed and the effect, had matters not come to light, could have been that months may have passed before the next scheduled visit.
24. The panel had regard to the final hearing panel's finding that, in relation to her misconduct, *"Ms Kouassi had not demonstrated any depth of understanding or remorse or any commitment to act differently if the opportunity arose"*. The panel noted that at paragraph 156 of its decision, the final hearing panel had taken into account the fact that Ms Kouassi was a newly qualified social worker undertaking her ASYE year and had provided Ms Kouassi with clear recommendations in relation to what may be expected of her during the period of the suspension order. The panel has not been provided with evidence of even embryonic steps by Ms Kouassi to remediate her failings. The panel had regard to the three emails dated 11 January 2023, 14 February 2023 and 28 February 2023, sent to Ms Kouassi by the Social Work England Case Review Team inviting her to provide evidence for consideration at the review of her final suspension order. The panel noted that Ms Kouassi had failed to respond to any of those emails.
25. In fact, there is no new information available to the panel today. Ms Kouassi has not engaged with Social Work England since the imposition of the final suspension order. Furthermore, she has not followed any of the recommendations of the final hearing panel.
26. In the panel's view, there is an expectation on a social worker to engage with her regulator, and to provide evidence to the panel that her fitness to practise is no longer impaired such that she is safe to return to unrestricted practice. The panel was satisfied that Ms Kouassi has not done so.

27. The panel considered that Ms Kouassi's failure to engage in this process is demonstrative of her lack of insight into the risks to service users resulting from her lack of competence and misconduct, and into the detrimental effect that it may have on public confidence in the social work profession.
28. The panel was mindful that the protection of the public is the overarching objective of Social Work England. Protection of the public has three elements: to protect, promote and maintain the health, safety and wellbeing of the public; to promote and maintain public confidence in social workers in England; and to promote and maintain proper professional standards for social workers in England.
29. The panel has therefore concluded that Ms Kouassi's fitness to practise remains impaired. The panel was satisfied that a finding of current impairment was necessary to protect the public and that all three limbs of the test are engaged.

Decision and reasons on sanction:

30. Having found Ms Kouassi's fitness to practise is currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel had regard to the written submissions made by Social Work England along with all of the information provided in the final order review hearing bundle. The panel also had regard to the sanctions guidance published by Social Work England.
31. The panel accepted the advice of the legal adviser.
32. The panel was mindful that the purpose of any sanction is not to punish the social worker but to protect the public and the wider public interest. The panel applied the principle of proportionality by weighing Ms Kouassi's interests with the public interest and by considering each available sanction in ascending order of severity.

No Action

33. The panel concluded that, in the absence of exceptional circumstances, it would be inappropriate to take no action, in light of the nature of the finding of impairment on the grounds of both lack of competence and misconduct and the continued risk of harm to service users. Furthermore, it would be insufficient to maintain public confidence and uphold the reputation of the profession.

Advice/ Warning

34. The panel then considered whether to issue advice or a warning. The panel noted that these sanctions would not restrict Ms Kouassi's ability to practise and were therefore not appropriate as they would fail to adequately protect the public and meet the wider public interest concerns identified by the panel.

Conditions of Practice Order

35. The panel went on to consider a conditions of practice order.
36. In the panel's view, given the complete lack of engagement by Ms Kouassi throughout the fitness to practice proceedings, and in particular since the imposition of the suspension order, it could not be satisfied that she would now engage and comply with a conditions of practice order. Furthermore, the panel concluded that it was not possible to formulate workable conditions of practice that would adequately mitigate the attitudinal concerns arising from the final hearing panel's finding of dishonesty against Ms Kouassi.

Suspension Order

37. Having determined that a conditions of practice order would not be appropriate, the panel considered the imposition of a further suspension order. Ms Kouassi has already had a period of almost 12 months' suspension from practice. During this period, notwithstanding the clear pathway to a return to practice set out by the final hearing panel, Ms Kouassi has chosen not to engage with Social Work England and has provided no evidence of insight or remediation. The panel therefore carefully considered whether a further period of suspension would serve any purpose and came to the conclusion that it would not. The panel considered that there was nothing to suggest that Ms Kouassi would use any further period of suspension to address the recommendations made by the final hearing panel. Furthermore, in the panel's view, it would lead to further deskilling.

Removal Order

38. 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. However, the panel took the view that, given the seriousness of the allegations found proved, including dishonesty, together with her complete lack of engagement with the regulatory process over a significant period, a removal order would be the appropriate and proportionate sanction.
39. The panel therefore ordered that Ms Kouassi's name be removed from the Social Work England Register upon the expiry of the existing suspension order on 16 June 2023.

Right of appeal:

40. 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.
41. 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.
42. Under Paragraph 15(2A) of Schedule 2 of The Social Workers Regulations 2018 (as amended), the decision of a review under sub-paragraph (2) takes effect from the date on which the regulator completes the review notwithstanding any appeal against that decision.
43. This notice is served in accordance with Rules 44 and 45 of the Fitness to Practise Rules 2019 (as amended).

Review of final orders:

44. 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).
45. 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

46. 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>