Social worker: Folashade Fapohunda
Registration number: SW107263
Fitness to Practise
Final Hearing

Dates of hearing: 24 April 2023 to 26 April 2023

Hearing venue: Remote hearing

Hearing Outcome: Fitness to practise impaired, warning order (3 years)

Introduction and attendees:

1. This is a hearing held under Part 5 of The Social Workers Regulations 2018 (as amended) ("the regulations").

2. Ms Fapohunda attended and was represented by Mr Elesinnla of counsel.

3. Social Work England was represented by Mr Wilson case presenter instructed by Capsticks LLP.

Adjudicators	**Role**
Manuela Grayson	Chair
Helen Dunkley	Social worker adjudicator
Melissa D'Mello	Lay adjudicator

James Dunstan	Hearings officer
Heather Hibbins	Hearings support officer
Charlotte Mitchell-Dunn	Legal adviser

Allegations:

1. The allegations arising out of the regulatory concerns referred by the Case Examiners on 1 May 2019 are:

Whilst employed as an agency social worker with the Pennine Care NHS Foundation Trust between 2016 and 2019:

Allegation 1:
1.1 You failed to treat information about service users as confidential in that you emailed the documentation, found in Schedule 1, below, containing sensitive information about service users to someone who was not entitled to see that information.

Schedule 1
(a) A Tribunal Section 3 Report for Patient A, dated 4 August 2016, returned to the Social Worker on 8 May 2016;

(b) A Pennine Care History Sheet and Multidisciplinary notes for Patient B, returned to the Social Worker on 9 May 2016;

(c) A Report for a Mental Health Review Tribunal for Patient C, returned to the Social Worker on 9 December 2016;

(d) A Tribunal/Hospital Managers Hearing Social Circumstances Report for Patient D, dated 26 January 2017, returned to the Social Worker on 1 October 2017;

(e) A letter from the Social Worker to Preston Specialist Triage in relation to Patient E, returned to the Social Worker on 8 November 2017;

(f) A Safeguarding Report for Children Services, dated 1 May 2018, in relation to Patient F, returned to the Social Worker on 5 March 2018;

(g) A Report for Initial Child Protection Conference in relation to Patient G, sent by the Social Worker to the recipient on 31 October 2018;

(h) A Court Report for Care Proceedings, in relation to Patient G, sent by the Social Worker to the recipient on 31 October 2018;

1.2 You failed to treat information about service users as confidential in that you emailed documentation containing sensitive information about service users on an insecure 'Yahoo' email address as set out in Schedule 2.

Schedule 2
i. A Tribunal Section 3 Report for Patient A, dated 4 August 2016, returned to the Social Worker on 8 May 2016;

ii. A Pennine Care History Sheet and Multidisciplinary notes for Patient B, returned to the Social Worker on 9 May 2016;

iii. A Tribunal/Hospital Managers Hearing Social Circumstances Report for Patient D, dated 26 January 2017, returned to the Social Worker on 1 October 2017;

iv. A letter from the Social Worker to Preston Specialist Triage in relation to Patient E, returned to the Social Worker on 8 November 2017;

v. A Safeguarding Report for Children Services, dated 1 May 2018, in relation to Patient F, returned to the Social Worker on 5 March 2018;

The matters set out above amount to the statutory ground of misconduct.

Your fitness to practise is impaired by reason of misconduct.

Admissions:

4. Rule 32c(i)(aa) Fitness to Practise Rules 2019 (as amended) (the 'Rules') states:

   Where facts have been admitted by the social worker, the adjudicators or regulator shall find those facts proved.

5. Following the reading of the allegations the panel Chair asked Ms Fapohunda whether she admitted any of the allegations.

6. Mr Elesinnla on Ms Fapohunda's behalf informed the panel that Ms Fapohunda admitted the entirety of allegations 1.1 and 1.2 including all of the particulars within schedules 1 and 2.

7. The panel therefore found allegations 1.1 and 1.2 proved by way of Ms Fapohunda's admissions.

8. In line with Rule 32c(i)(a) of the Rules, the panel noted that there were no disputed facts.

9. The panel went on to determine misconduct and impairment.

Factual Background:

10. On 1 May 2019, the Health and Care Professions Council received a referral from Pennine Care NHS Foundation Trust ("the Trust") regarding Ms Fapohunda.

11. At the relevant time, Ms Fapohunda was engaged as an agency mental health worker.

12. Ms Fapohunda emailed documents with confidential patient information to another social worker employed outside of the Trust.

13. In March 2019 Ms Fapohunda was interviewed by a member of the Trust Human Resources team, she admitted sharing information outside of the Trust on one occasion and confirmed this was the only occasion. Following a review of Ms Fapohunda's NHS email account in April 2019 no further emails were identified.

14. During the course of investigations by the Trust and the recipient's employer, the recipient's employer identified further emails sent by the Social Worker between 2016 to 2018 attaching confidential information including names, addresses, details of health conditions and other confidential personal data.

Summary of evidence:

15. On the basis that all of the factual allegations were admitted, Social Work England did not call any witnesses and relied upon the written statements of STH and PB contained within the Statements bundle.

16. Ms Fapohunda called Ms CP to give evidence. CP provided a statement in support of Ms Fapohunda which states as follows:

> *"I am a Care Coordinator and I currently work for the Community Mental Health Team ("CMHT") in Trafford.*
>
> *I have known Ms Folashade Fapohunda, the registrant for eight years, and we currently work as Care Coordinators at the Community Mental Health Team in Trafford.*
>
> *As a student, I was in the same final placement with Fola at the CMH team and we have worked on the same team for some time. Fola has always displayed a high degree of integrity, responsibility, and ambition. I will describe Fola as hard working, confident with good interpersonal skills.*

Although I have not supervised or managed Fola, I have worked alongside her in different capacities in the social work role and I have found her to be honest, trustworthy and of good morals. Regarding the handling of clients' information and data protection, Fola follows the Trust policies and in the past, she has advised me on how to use subject access requests to share information with other professionals involved in clients' care.

In terms of remediation, it is mandatory that information Governance training is completed yearly, and I am sure that Fola adheres to this."

17. CP gave evidence on Ms Fapohunda's behalf. She confirmed the content of her witness statement was true. She further confirmed that she had known Ms Fapohunda for 8 years and she was aware of the reason that Ms Fapohunda was before her regulator. She stated that Ms Fapohunda had not had any further issues in respect of data confidentiality since the allegation.

18. CP was asked questions in cross examination. She confirmed that she knew the reason that Ms Fapohunda was before her regulator. She confirmed that she met Ms Fapohunda on her final placement. She stated that she was not sure about the dates of exactly when she worked with Ms Fapohunda between May 2016 and 2018 and explained that she worked on another team. She noted it was a requirement of her agency that data protection and service user confidentiality training was up to date. She stated that she worked for the Randstad recruitment agency, and they signed off compliance with the training requirements, and it was not possible to start a role until this training was completed. She explained that she had been qualified for the same amount of time as Ms Fapohunda but had no doubt in her mind that it was not permissible to send confidential service user reports outside of the Trust in the circumstances that Ms Fapohunda did. She confirmed that this would amount to a breach of the professional standards and was not acceptable.

19. In response to the panel's questions CP explained that she had been shown how to manage subject access requests by Ms Fapohunda, who had helped her navigate this process and knew what to do. She confirmed she had not seen a copy of the allegations in this case. She confirmed that she was friends with Ms Fapohunda, and that they occasionally socialised outside of work. In respect of her statement that she is "sure" that Ms Fapohunda adheres to information governance training requirements, she confirmed that she and Ms Fapohunda worked for the same Trust and that their manager was always emphasising these issues. She believed Ms Fapohunda was adhering to the requirements.

20. Ms Fapohunda called Dr S to give evidence. Dr S provided a statement in support of Ms Fapohunda which stated as follows:

"I am the clinical psychologist working into the North Trafford Community Mental Health Team. I have known Fola since she joined the team in 2019. I have worked jointly with Fola, and she has attended reflective practice sessions facilitated by me. I have been in many multidisciplinary meetings with her.

In my experience Fola has been a compassionate, honest, and thoughtful colleague. She explained the nature of the allegation made about her and how since then she has kept

client confidential information in line with all policies and guidance. I have no reason to question this and believe she will continue to be thoughtful about confidentiality and has learnt from this mistake."

21. Dr S's statement stood as her evidence in chief. Dr S confirmed that she knew Ms Fapohunda since 2019, therefore for 4 years. She confirmed what Ms Fapohunda had told her about the allegations. She could not recall whether she had been told about the number of service users involved. She stated that in reflective practice, issues of data protection and patient confidentiality are covered, in respect of when to contact family members and what information should be shared.

22. In response to the Panel's questions Dr S confirmed that the reflective practice took place in respect of assessments in the workplace and did not cover specifically the allegations. She confirmed that she was Ms Fapohunda's colleague, and while they exchanged a few messages outside of work, they did not socialise. She confirmed she could not recall seeing a copy of the allegations in this case and was not aware of the timeframe of the allegation, however she stated Ms Fapohunda was conscious now of issues raised in the allegations, and she had no concerns about her current practice.

23. Ms Fapohunda gave evidence. Her witness statement stood as her evidence in chief. Ms Fapohunda was cross examined. Ms Fapohunda confirmed that when she sent the documents to the recipient, she knew she was breaching the professional conduct rules. She acknowledged she sent emails from a Yahoo account, which was not secure. She stated it was normal practice at the time for social workers to send documents to their personal email addresses to enable them to work from home. She explained that she previously worked with a different agency and didn't have any confidentiality training with that previous agency. Ms Fapohunda confirmed however that she knew that if she was sending a document on, it ought to be redacted and not sent outside the organisation insecurely. She stated she didn't speak to anyone within her workplace about the content of the reports at the time, but now she believes in herself and has written so many reports that this issue would not occur again.

24. In response to the panel's questions Ms Fapohunda stated that the role was her first job after qualifying, but she accepted that she had received clear training on her social work course in respect of confidentiality. She stated she had a manager at the time, and accepted that she had not raised concerns with them. She stated she was expected to perform at a band 6 level and "*hit the ground running*". She accepted she had supervision every few months. She said in respect of sending information outside of the trust that "*in her head she thought [the recipient] was a professional, so it was safe to do so*". She explained that the recipient had proof-read her work when they had completed a Masters course together. She stated she was trying to make sure her work was "*perfect*", as she wanted others to see her as "*capable*". She stated there was no malice behind her actions, but she acknowledged what she had done was wrong. She stated her conduct breached service user confidentiality and impacted negatively on public confidence. She explained she felt unable to seek support at the time because she feared losing her job. She stated her circumstances were now

different and she has a lot of support and could seek help in reflective practice. In respect of the training certificates that she provided, she stated she completed reflective logs in respect of each online training course. She stated each online course had taken a minimum of 45 minutes. She explained the courses were part of her mandatory training and she was expected to pass a test with an 80-90% pass rate at the end of each online training exercise. She further described what she had learnt from the courses.

Submissions on misconduct and impairment

25. Mr Wilson on behalf of Social Work England noted that Social Work England relied on the breaches of the HCPC standards as set out within their statement of case. He stated Ms Fapohunda ought to have known what she was doing was in breach of her professional obligations, and argued her actions amounted to misconduct. Mr Wilson noted confidentiality is a key tenet of the social work profession and stated Ms Fapohunda's breaches were clear. In respect of impairment Mr Wilson emphasised the need to uphold and declare proper standards and maintain public confidence in the profession. He stated while Ms Fapohunda's conduct took place a number of years ago, the conduct was significant, and by sending the documents in such a way Ms Fapohunda had lost control of the documents and also sent them in an unsecure manner. Mr Wilson therefore submitted that a finding of impairment was necessary in the circumstances.

26. Mr Elesinnla accepted that Ms Fapohunda conduct amounted to misconduct. He stated Ms Fapohunda had been fair and candid in her admissions to the allegations. He argued that there should be a "*forward looking perspective*". He acknowledged that Ms Fapohunda was an inexperienced social worker who made mistakes, over a period of time, but had been candid in accepting what she had done wrong. He noted the mistakes occurred a long time ago and emphasised that there had been no further transgressions. He stated this incident was not likely to happen again and Ms Fapohunda had learnt her lesson. For those reasons, he submitted Ms Fapohunda was not currently impaired. He submitted Ms Fapohunda made no personal gain from her conduct. Mr Elesinnla stated that the conduct was the conduct of an inexperienced social worker, who had little support. He stated Ms Fapohunda had been degraded in public for the quality of her report writing and had, as a result, lost confidence in her work. The panel understood that Mr Elesinnla was making reference to criticism which had been made by a tribunal member.

27. The panel considered all the evidence and the submissions. The panel accepted the advice of the legal adviser and was aware that:

    a. The overriding objective of Social Work England is to protect the public, which includes maintaining public confidence in social workers and maintaining professional standards of social workers.

b. Whether the facts found amount to misconduct is a matter for the panel's independent judgement.

c. There is no statutory definition of misconduct, but the panel had regard to the guidance given in Roylance v GMC (No2) [2001] 1 AC 311:

'Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a… practitioner in the particular circumstances'.

d. The conduct must be serious and fall well below the required standards (Nandi v GMC [2004] EWHC 2317).

e. A social worker's conduct should be considered in the light of any standards of conduct, performance and ethics or other fitness to practise requirements that were applicable to the social worker at the time of the alleged misconduct.

f. The test for impairment set out by the court in Council for Health and Regulatory Excellence v Nursing and Midwifery Council and Grant [2011] EWHC 927 (Admin) was whether the panel's findings in respect of the practitioner's competence and capability show that the practitioner's fitness to practise is impaired in the sense that they have in the past and/or are liable in the future (a) to put service users at unwarranted risk of harm; (b) to bring the profession into disrepute; (c) to breach one of the fundamental tenets of the profession; (d) to act dishonestly and/or be is liable to act dishonestly in the future.

g. At the impairment stage the tribunal should take account of evidence and submissions that the conduct (i) is easily remediable, (ii) has already been remedied; and (iii) is highly unlikely to be repeated.

h. The panel should also consider whether Ms Fapohunda's fitness to practise is impaired in the sense that a finding of impairment is required to maintain public confidence or proper professional standards.

Finding and reasons on misconduct:

28. The panel concluded that the proved facts of the allegation amounted to a breach of the following Health and Care Professions Council, Standards of conduct, performance, and Ethics/ Proficiency

1. Promote and protect the interests of service users and carers.

Treat service users and carers with respect
1.1 You must treat service users and carers as individuals, respecting their privacy and dignity.

5. Respect confidentiality

Using information
5.1 You must treat information about service users as confidential.

Disclosing information
5.2 You must only disclose confidential information if:
– you have permission;
– the law allows this;
– it is in the service user's best interests; or
– it is in the public interest, such as if it is necessary to protect public safety or prevent harm to other people.

10. Keep records of your work

Keep records secure.
10.3 You must keep records secure by protecting them from loss, damage, or inappropriate access.

29. The panel took into account that the conduct found proved took place over 2.5 years and amounted to a breach of confidentiality in respect of a significant number of service users. As such, the panel considered that the conduct of Ms Fapohunda was serious and amounted to misconduct.

30. The panel were satisfied that the proved paragraphs of the allegation amounted to a failure by Ms Fapohunda to adhere to the standards expected of someone in her position as a registered social worker.

31. The panel noted that Ms Fapohunda had received training in respect of confidentiality as part of her social work qualification. Further, the panel noted that maintaining confidentiality is a fundamental ethical responsibility of a social worker. The panel concluded that Ms Fapohunda's conduct amounted to a breach of the fundamental tenets of the social work profession.

32. The panel considered that in breaching service users' confidentiality, Ms Fapohunda's conduct fell short of what would be proper in the circumstances. The panel was satisfied that it was evident from both the charges found proved and from the evidence of her own witness, CP, that Ms Fapohunda's conduct was egregious and would be regarded as deplorable by fellow practitioners.

33. The panel therefore determined that the proved facts within paragraphs 1.1 and 1.2 of the allegation amounted to misconduct.

Finding and reasons on current impairment:

34. Having determined that the proved facts amount to misconduct, the panel considered whether Ms Fapohunda's fitness to practise is currently impaired. The panel took into consideration Social Work England's Impairment and Sanctions guidance.

35. The panel had regard to the questions posed by Dame Janet Smith in her Fifth Shipman Report endorsed in the case of Council for Healthcare Regulatory Excellence v Nursing and Midwifery Council and Grant [2011] EWHC 927 Admin. In light of its findings on misconduct the panel concluded that Ms Fapohunda had, in the past:

    i. acted so as to put a member of the public at unwarranted risk of harm;

    ii. brought the profession of social work into disrepute; and

    iii. breached fundamental tenets of the social work profession.

36. However, the panel considered that Ms Fapohunda's misconduct was capable of remediation and that Ms Fapohunda had demonstrated to the panel a significant understanding of the impact of her conduct and had acknowledged the harm that her behaviour caused to service users.

37. Ms Fapohunda has made full admissions to the allegation and has apologised for her actions. The panel noted that there has been no repetition of Ms Fapohunda's conduct since 2018. The panel also considered the evidence of CP and Dr S in respect of Ms Fapohunda's current practices in relation to service user confidentiality.

38. The panel noted that Ms Fapohunda demonstrated a genuine understanding of what she had done wrong, and of the effects of her conduct on service users, the Trust and on public confidence in her profession. The panel also considered the evidence that Ms Fapohunda has undertaken relevant and up to date training in respect of confidentiality and data governance.

39. The panel took account of Ms Fapohunda's evidence that she was expected to perform as a Band 6, and she was concerned about losing her job, having been openly criticised in respect of the quality of her reports. The panel noted that Ms Fapohunda acknowledged that she should have taken alternative actions, such as discussing matters with a manager or seeking support. The panel noted her evidence in respect of her now feeling able to seek such support.

40. The panel concluded that Ms Fapohunda had demonstrated sufficient insight into her conduct. The panel further noted the training she has undertaken and her positive testimonials. The panel therefore determined that there was a low risk of reoccurrence.

41. On this basis that panel determined that Ms Fapohunda is not currently impaired in respect of the personal component.

42. The panel considered the important public interest element of impairment. It was mindful of the need to uphold and declare proper professional standards and of the need to

maintain public confidence in the social work profession and the regulator. It took into account the guidance in the case of Council for Healthcare Regulatory Excellence v Nursing and Midwifery Council and Grant [2011] EWHC 927 Admin that the panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.

43. The panel considered its findings in relation to misconduct and the fact that it had made a finding that Ms Fapohunda's conduct breached a fundamental tenet of the social work profession. The panel noted that there was a risk of harm to service users, and Ms Fapohunda's conduct took place over a number of years.

44. The panel considered that members of the public, if they had heard the facts of this case would be shocked or concerned if the regulator were not to mark the seriousness of Ms Fapohunda's misconduct with a finding of current impairment on public interest grounds.

45. Given the circumstances of Ms Fapohunda's conduct the panel considered there would be a failure to uphold and declare proper standards, were the panel not to make a finding of current impairment on public interest grounds.

46. The panel therefore determined that there was a requirement to make a finding of current impairment on public interest grounds.

47. The panel therefore find that Ms Fapohunda's fitness to practise is currently impaired.

Summary of submissions - Sanction:

48. The panel heard submissions from Mr Wilson on behalf of Social Work England. He submitted that the appropriate sanction was either a 1 year or 3-year warning order, dependent upon how the panel viewed the severity of Ms Fapohunda's conduct.

49. Mr Wilson noted that the case was not suitable for there to be no further action taken, on the basis of the panel's findings in respect of misconduct and impairment. He submitted that taking no further action would not mark the wider public interest concerns. He noted that a warning was more suitable than advice, due to the repetition of Ms Fapohunda's conduct over a number of years and the harm caused to service users.

50. Mr Wilson submitted either a 1- or 3-year warning was appropriate given the seriousness of Ms Fapohunda's misconduct. The panel was reminded of its findings that Ms Fapohunda's actions had breached a fundamental tenet of the profession, namely confidentiality. He also made suggestions as to mitigating and aggravating factors.

51. Mr Elesinnla on behalf of Ms Fapohunda submitted that the appropriate sanction in this case was taking no further action; he submitted in the alternative that giving advice was the appropriate sanction.

52. He noted the panel's findings in respect of impairment and noted that the mitigating features of the case outweighed the aggravating features. He referred to the fact that Ms Fapohunda had done all she could to remediate the concerns and submitted that this was the reason no further action should be taken.

53. In the alternative, Mr Elesinnla submitted advice was appropriate in this case. He submitted a warning would be at the more severe end of sanctioning and would not be appropriate given the panel's findings in the case.

Determination and reasons – Sanction:

54. The panel accepted the advice of the legal adviser, that it must again pursue the overarching objective when exercising its functions. The panel must apply the principle of proportionality, balancing Ms Fapohunda's interests with the public interest. The purpose of a sanction is not to be punitive, although a sanction imposed may have a punitive effect. The panel considered the least restrictive sanction first and then moved up the sanctions scale as appropriate. The panel had regard to the Social Work England Impairment and Sanctions Guidance, last updated on 19 December 2022, together with its determination of grounds and impairment.

55. The panel reminded itself that it had concluded that Ms Fapohunda's fitness to practise was impaired on the public component.

56. The panel carefully considered the aggravating and mitigating features in this case.

57. The panel concluded that the aggravating features in this case are:

    i) Ms Fapohunda's actions were not isolated, her conduct took place over 2.5 years.

    ii) Ms Fapohunda breached the confidentiality of multiple service users and their family members.

    iii) Ms Fapohunda's conduct caused harm to service users and may have resulted in a lack of trust and confidence in the profession.

58. The panel identified the following mitigating features:

    i) Ms Fapohunda has demonstrated genuine remorse.

    ii) There is no evidence of repetition. Ms Fapohunda has worked without further incident for several years since the allegation arose.

    iii) Ms Fapohunda made early admissions to the allegations brought by Social Work England.

    iv) Ms Fapohunda has taken steps to ensure that her conduct does not reoccur, including the successful completion of training courses.

59. The panel has carefully considered what type of order should be imposed, starting with the least severe sanction. It has considered the principle of proportionality and balanced the

rights of the public and the rights of Ms Fapohunda to practise in her chosen profession. The panel accepted the advice of the legal adviser and had regard to the Impairment and Sanctions Guidance.

60. The panel further reminded itself that the purpose of a sanction is not to punish the individual practitioner but to protect the public and the wider public interest.

61. In light of the misconduct, the panel concluded that it would not be appropriate to take no further action. The panel had regard to the Impairment and Sanctions Guidance. This case was not exceptional. It might have been different if this had been a single isolated incident however the conduct took place in respect of multiple service users, over a 2.5 year period.

62. Although there was no impairment found on the personal component, the panel took the view that the finding of impairment alone was not sufficient to protect the wider public interest. Ms Fapohunda's actions were serious. While Ms Fapohunda's intentions in sending the reports outside of the Trust were to ensure that her reports were well-written, Ms Fapohunda should have chosen an appropriate route to ensuring her work was satisfactory. The panel concluded that Ms Fapohunda's focus was on keeping her job, and in that focus, she prioritised her own interests over service users, and in turn put their confidentiality at risk.

63. The panel considered whether it would be appropriate to impose an advice order but concluded that Ms Fapohunda's actions were too serious for such an order. The panel had regard to paragraph 102 of the Sanctions Guidance as follows:

"*An advice order should set out the steps the social worker should take to avoid repeating the conduct that contributed to the concern.*"

64. The panel's view was that an advice order would be more appropriate for a case of a mistake or misunderstanding. Ms Fapohunda however knew what was expected of her in relation to confidentiality, and deliberately breached those standards. In short, the panel concluded that a more severe sanction was required to mark the seriousness of Ms Fapohunda's conduct, and to uphold the public interest and wider confidence in the profession.

65. The panel next considered a warning order and concluded that this was the appropriate sanction. The panel concluded that this case fell within the guidance as set out in paragraph 107 of the Impairment and Sanctions Guidance:

"*A warning order shows clear disapproval of the social worker's conduct or performance. A warning order is a signal that the social worker is highly likely to receive a more severe sanction if they repeat the behaviour*."

66. A warning order was appropriate having regard to the nature of Ms Fapohunda's misconduct and the need to send a clear message to the public and the profession that any breach of confidentiality, such as sending service user confidential information outside of a Trust, will be treated seriously by the regulator, in seeking to uphold professional standards.

67. The panel considered the appropriate length of the warning order and had regard to paragraph 110 as follows:

"When deciding on the proportionate duration of a warning, decision makers should consider (all of the following):

-1 year may be appropriate for an isolated incident of relatively low seriousness. In these cases, the primary objective of the warning is to highlight the professional standards expected of social workers.

-3 years may be appropriate for more serious concerns. This helps to maintain public confidence and highlight the professional standards. The period also allows more time for the social worker to show that they have addressed any risk of repetition.

-5 years may be appropriate for serious cases that have fallen only marginally short of requiring restriction of practice. This helps to maintain public confidence and highlight the professional standards. A social worker should ensure there is no risk of repetition throughout this extended period. If successful, there will be no further fitness to practise findings (in relation to similar concerns)."

68. The panel determined that this was not an isolated incident of low seriousness. Equally, this was not a serious case which had fallen only marginally short of requiring a restriction of Ms Fapohunda's registration. Therefore, a warning order for a 5-year period would be disproportionate.

69. The panel concluded that a warning order for a period of 3 years was appropriate, having regard to paragraph 110 of the Impairment and Sanctions Guidance above. A 3-year warning order was sufficient to mark the seriousness of Ms Fapohunda's misconduct, to maintain public confidence in the profession and to send a clear message regarding professional standards.

70. Having arrived at an appropriate sanction, the panel concluded that to impose the more restrictive sanction of a conditions of practice order would be unnecessarily punitive and disproportionate. The Impairment and Sanctions Guidance states that conditions are less likely to be appropriate in cases raising wider public interest issues and most commonly applied in cases of lack of competence or ill health. Having only found impairment on the basis of the wider public interest the panel would not have been able to formulate any workable or practicable conditions, having reached the conclusion that the risk of repetition was low. The panel concluded that the public interest issues in this case were adequately addressed by a 3-year warning order.

Right of appeal:

71. Under Paragraph 16(1)(a) of Schedule 2 of the regulations, the social worker may appeal to the High Court against the decision of adjudicators:

    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.

72. Under Paragraph 16(2) of Schedule 2 of the regulations 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.

73. Under Regulation 9(4) of the regulations this order may not be recorded until the expiry of the period within which an appeal against the order could be made, or where an appeal against the order has been made, before the appeal is withdrawn or otherwise finally disposed of.

74. This notice is served in accordance with Rules 44 and 45 of the Social Work England Fitness to Practice Rules 2019 (as amended).

Review of final orders:

75. Under Paragraph 15(1), 15(2) and 15(3) of Schedule 2 of the regulations:

- 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), and a final order does not have effect until after the expiry of that period

76. Under Rule 16(aa) of the rules 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:

77. Please note that in accordance with section 29 of the National Health Service Reform and Health Care Professions Act 2002, a final 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.