



Social worker: Sandi Wilson Registration number: SW9731 Fitness to Practise Final Hearing

Dates of hearing: 9 to 15 May 2023

Hearing venue: Remote hearing

Hearing Outcome: Fitness to practise impaired, warning order (5 years)

Introduction and attendees:

1. This is a hearing held under Part 5 of The Social Workers Regulations 2018 (as amended) (“the regulations”).
2. Mrs Wilson attended and was not represented.
3. Social Work England was represented by Miss Bucklow case presenter instructed by Capsticks LLP.

Adjudicators	Role
Jane Everitt	Chair
Belinda Henson	Social worker adjudicator
Angela Duxbury	Lay adjudicator
Paul Harris	Hearings officer
Natarliya James	Hearings support officer
Sinead Roberts	Legal adviser

Service of notice:

4. Mrs Wilson attended and was not represented. No issues were raised in respect of the service of the notice.
5. The panel of adjudicators had regard to the documents contained in the final hearing service bundle as follows:
 - A copy of the notice of the final hearing dated 3 April 2023 sent to Mrs Wilson at her address as provided to Social Work England;
 - An extract from the Social Work England Register detailing Mrs Wilson’s registered address.
6. Having had regard to Rules 14, 15 and 44 of the Social Work England (Fitness to Practise Rules) 2019 updated 16 December 2022 (“the Rules”) and all of the information before it in relation to the service of notice, the panel accepted the advice of the legal adviser and was satisfied that notice of the hearing had been served on Mrs Wilson in accordance with the Rules.

Preliminary matters:

Application for parts of hearing to be in private:

7. Following discussions with Mrs Wilson, Miss Bucklow made the panel aware that evidence relating to the social worker’s physical and mental health was likely to be discussed which would not be appropriate to be dealt with in a public hearing. Miss Bucklow therefore made an application for matters relating to the social worker’s physical or mental health to be heard in private.

8. Mrs Wilson confirmed to the panel that the application was made in accordance with her wishes.
9. The panel accepted legal advice that usually hearings are held in public in accordance with the general principles of open justice, however, on some occasions it is appropriate to hold parts of the hearing in private. The panel was directed to Rule 38 which states that *'(a) A hearing, or part of a hearing, shall be held in private where the proceedings are considering:.... (ii) the physical or mental health of the registered social worker'*.
10. The panel determined that it would be appropriate to consider parts of the hearing relating to the social worker's mental or physical health in private.

Application to amend the allegations:

11. Miss Bucklow applied to amend the allegations previously provided to the panel and the social worker.
12. The first amendment related to the date range in paragraph 1. Consent was sought to change the date range from July to August 2019 in order to ensure that it appropriately reflected the dates of the alleged misconduct as set out in the evidence contained within the hearing bundle.
13. The second amendment sought was the removal of the alleged dishonesty in respect of 1b (the inaccurate mileage claims). This followed a review of the evidence and the parties' production of a list of agreed facts.
14. Mrs Wilson indicated her agreement to the proposed amendments.
15. The panel accepted legal advice that they may agree to the amendment if satisfied that the proposed amendments would not cause injustice to the social worker or undermine her right to a fair hearing.
16. The panel agreed the proposed amendments.
17. In reaching their decision on amendment the panel considered that the social worker only had limited notice of the application to amend, which in some circumstances could cause injustice particularly to an unrepresented individual. However, the panel noted that the proposed amendments had been discussed with the social worker at length, had been agreed by her and did not represent a material change in the seriousness of the allegations. The changes related to matters of clarification and further particularisation which was felt to be in all parties' interests.

Irrelevant material:

18. It was noted that some material included in the original hearing bundle, which had been made available to the panel, had been produced for an internal disciplinary hearing. This material included reference to an allegation which had been disproven at a local level and did not form part of the Social Work England case. The panel was advised that this

material had been included in error. The panel therefore agreed that this material would be disregarded in its entirety and form no part of the panel's decision making.

Allegations (as amended):

Whilst registered as a Social Worker.

1. Between January 2019 and August 2019 you made inaccurate claims in respect of

a) flexitime

b) mileage

2. Between 21 March 2019 and 25 July 2019, you failed to accurately record entries in your electronic diary.

3. Your actions in regulatory concerns 1a and/or 2 above constitute dishonesty.

The matters outlined at regulatory concerns 1, and/or 2, and/or 3 above amount to the statutory ground of misconduct.

Your fitness to practise is impaired by reason of misconduct.

Background:

19. On 31 December 2019 Social Work England received a referral regarding the Respondent social worker, Sandi Wilson ("the Social Worker"). The referral was made by TJ, Strategic Manager at Durham County Council ("the Council").
20. Mrs Wilson was employed by the Council at the time of the concerns and remains in employment with them. The concerns relate to inaccurate claims in relation to the recording of mileage and flexitime claims between January 2019 and August 2019 and in relation to failing to accurately record entries in her electronic diary between the 21 March 2019 and 25 July 2019 and further to dishonesty in relation to the flexitime claims and diary entries.

Admissions:

21. 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.

22. Following the reading of the allegations the panel Chair asked Mrs Wilson whether she admitted any of the allegations.
23. Mrs Wilson informed the panel that she admitted allegations 1-3. The admissions were made on the basis of the agreed facts set out below in paragraphs 25-41.

24. The panel therefore found allegations 1-3 proved by way of Mrs Wilson's admissions in accordance with the provisions of Rule 32c(i) (aa) and found the facts contained within the agreed facts proved.

Agreed facts:

25. On 21 March 2019 the social worker recorded on her flexi time-sheet that she had worked 07.05 hours, finishing at 17:00hrs (page 65, Exhibit Bundle). The social worker accepts that on this date she finished work at 15:00hrs to visit her Nana, who was terminally ill at that time. The social worker accepts that she recorded an inaccurate finish time.
26. The social worker's electronic diary for 21 March 2019 includes an entry for a home visit to Service User LM at 16:00hrs (HV LM, page 56 Exhibits Bundle). The social worker accepts that this diary entry is inaccurate and that she had left work to visit her Nana.
27. On 23 May 2019 the social worker recorded on her flexi time-sheet that she had finished work at 17:00hrs (page 67 Exhibits Bundle). The social worker accepts that on this date she finished earlier than the time stated in the time-sheet, to attend a doctor's appointment at 16:40hrs (page 58 Exhibits Bundle). The social worker accepts that she recorded an inaccurate finish time.
28. On 1 August 2019, the social worker made a mileage claim for 30 miles to Peterlee on 23 May 2019 (page 80 Exhibit Bundle). The social worker accepts that this mileage claim is inaccurate and that this journey did not take place on this date.
29. On 17 June 2019 the Social Worker recorded on her flexi time- sheet that she worked 07:10 hours, finishing at 17:10hrs (page 68 Exhibit Bundle). The social worker accepts that on this date she finished work two hours early, as her Nana was admitted to hospital. The social worker accepts that she recorded an inaccurate finish time.
30. The social worker's electronic diary for 17 June 2019 includes an entry for a review of Service User KC at 15:00 hrs (page 59 Exhibit Bundle). The social worker accepts that this diary entry is inaccurate and that she had left work early to visit her Nana.
31. On 10 July 2019 the social worker's electronic diary includes an entry for 'SO meeting' at 15:00hrs. The social worker accepts that this diary entry is inaccurate and that she left work two hours early to visit her Nana at the chapel of rest.
32. On 25 July 2019 the social worker's electronic diary includes an entry for 'KC Visit Hawthorne' at 14:00hrs. The social worker accepts that this diary entry is inaccurate and that she had logged off work at 14:46hrs to visit her Nana's home before it changed occupancy. The social worker logged back onto the work system at 15:55hrs until 17:08 (page 257, Exhibits Bundle). The social worker did not inform her manager of this absence.

33. There is no evidence that the social worker over-claimed flexi time, the local disciplinary investigation found that the social worker had lost significantly more time during this period than she had over-claimed (page 8 social worker's Response Bundle).
34. Between 1 January 2019 and 1 August 2019, the social worker submitted mileage claims for February, March, and May 2019. The social worker accepts the mileage claimed for 58 miles on 4 February 2019 (page 69 Exhibit Bundle) is an inaccurate mileage claim because that journey didn't take place. This was a meeting that was planned in the social worker's electronic diary but was subsequently cancelled. The social worker's diary was not amended to reflect the cancellation.
35. The social worker submitted a mileage claim for 36 miles for a journey on 14 March 2019, the social worker over claimed four miles, as she did not deduct the four-mile journey from home to work (pg71 Exhibit Bundle). The social worker submitted a mileage claim for 18 miles on 14 March 2019, for a journey to Shildon (page 71 Exhibit Bundle). This journey did not take place, it was a meeting planned in the Social Worker's electronic diary that was subsequently cancelled. The social worker did not amend her diary to reflect the cancellation.
36. The social worker submitted a mileage claim for 36 miles for a home visit to Gainford on 20 March 2019 (pg71 Exhibit Bundle). This journey did not take place, it was a meeting planned in the social worker's electronic diary that was subsequently cancelled. The social worker did not amend her diary to reflect the cancellation.
37. The social worker submitted mileage claims for 4 and 11 May 2019 (page 82 Exhibit Bundle). These dates fall on a Saturday, and the social worker accepts that the claims are inaccurate.
38. In respect of the inaccurate mileage claims outlined above for February and March 2019, the social worker attributes this to not removing cancelled appointments from her electronic diary, and then relying on the electronic diary to make her mileage claims.
39. In relation to the inaccurate mileage claim for 4 and 11 May 2019, the social worker attributes this to completing the claim whilst on annual leave, after receiving a request from her manager at a time she was getting ready to fly abroad the same day.
40. There is no evidence to suggest that the social worker benefitted financially from submitting the inaccurate mileage claims, as there were times that the social worker did not claim for her mileage.
41. The social worker accepts that her conduct in relation to Allegation 1a and Allegation 2 was dishonest. The social worker attributes this to the difficult personal circumstances and work-related pressures she was experiencing at the time, as outlined in the social worker's Response Bundle.

Submissions on Grounds:

42. Having found the above facts proved the panel went on to consider the issue of whether the statutory grounds had been made out and whether the facts found proved amounted to misconduct.
43. Miss Bucklow submitted on behalf of Social Work England that the facts found proved amounted to the statutory ground of misconduct.
44. The panel heard and accepted legal advice in relation to the issue of misconduct.
45. The panel was directed to the cases of *Roylance v GMC* (no.2) (2000) AC 311 which described misconduct in the following terms:

"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. The misconduct is qualified in two respects. First, it is qualified by the word 'professional' which links the misconduct to the profession ... Secondly, the misconduct is qualified by the word 'serious'. It is not any professional misconduct which will qualify. The professional misconduct must be serious."

46. The panel was directed to the case of *Nandi v GMC* [2004] EWHC 2317 (Admin) in which Justice Collins observed:

"The adjective 'serious' must be given its proper weight and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioners."
47. The panel was advised that mere negligence does not constitute misconduct pursuant to the principles established in *Calhaem v GMC* [2008].
48. Mrs Wilson took some time to consider the case law and the Health and Care Professions Council (HCPC) publications - *Standards of Conduct, Performance and Ethics* and *Standards of Proficiency for Social Workers* which set out the duties expected of social workers at the relevant time.
49. Having considered her position and taken into account the legal advice given in the hearing, Mrs Wilson set out that she accepted her actions had breached workplace policies and procedures and resulted in a breach of the standards of proficiency due to her flexi, diary and mileage entries not always being managed properly and appropriately.
50. Mrs Wilson recognised that the choices she made on the 4 occasions during which she misled her employer as to her whereabouts would have breached the public's trust and the trust of her employer which she believed amounted to misconduct.

51. Mrs Wilson stated that she did not believe that her actions were to harm or to profit and believed that there were significant mitigating circumstances at that time.

Panel's finding and reasons on Grounds:

52. The panel started their deliberations by looking at the relevant professional standards in force at the relevant time. The panel noted that not every departure from professional standards may be considered to constitute misconduct but considered it to be a useful starting point.
53. The panel considered that Mrs Wilson's conduct was in breach of HCPC Standards of conduct, performance and ethics (2016) 9.1 which sets out that social workers must make sure that their conduct *"justifies the public's trust and confidence in you and your profession"* and of 10.1 which states *"you must keep full, clear and accurate records for everyone you care for, treat or provide other services to"*.
54. The panel also considered the HCPC Standards of proficiency applicable to social workers in England 2017. This sets out the standards for safe and effective practice considered necessary to protect the public. The panel considered that Mrs Wilson's conduct was in breach of HCPC Standards of proficiency 9 *"be able to work appropriately with others"*. 9.1 of the standard of proficiency states that social workers must *"understand the need to build and sustain professional relationships with .. colleagues as both an autonomous practitioner and collaboratively with others"*. The panel considered that as an experienced social worker assistant team manager, Mrs Wilson should have been able to have a discussion with her manager in relation to her personal circumstances and consider seeking to explore other options to assist her such as requesting compassionate leave rather than seeking to mislead her manager in respect of her whereabouts.
55. The panel also considered Mrs Wilson's conduct in failing to ensure that she made appropriate mileage and flexitime claims and properly maintaining her electronic diary to be in breach of HCPC standard of proficiency 10 *"be able to maintain records appropriately"*. The panel considered Mrs Wilson to be in clear breach of 10.1 which requires the keeping of *"accurate, comprehensive and comprehensible records in accordance with applicable legislation, protocols and guidelines"* and 10.2 which involves recognising *"the need to manage records and all other information in accordance with applicable legislation, protocols and guidelines"*.
56. The panel noted that Mrs Wilson had accepted her actions in respect of the flexi time and diary entries had been dishonest and that four of her diary entries had been made with the intention of misleading her manager as to her whereabouts. The panel considered this to be particularly serious and was satisfied that dishonesty in this context amounted to professional misconduct.
57. In reaching their findings the panel took into account the Social Work England Impairment and sanctions guidance (2022) which lists at paragraph 62 examples of cases

likely to be viewed as serious, this list includes dishonesty. The guidance goes on to set out at paragraph 172 that *“honesty is key to good social work practice”*. The panel recognised that this is important as social workers are routinely trusted with access to private space and highly sensitive confidential information. Other organisations also rely on honesty and integrity of social workers to make important decisions in relation to service users and their relatives and carers. Accordingly, the panel considered that concerns as to the honesty of a social worker would be likely to undermine public confidence in the profession supporting a finding of misconduct.

58. The panel accepted that the mileage claims had not been made dishonestly, however, the panel was satisfied that the failure to claim mileage based upon a properly maintained accurate record of miles undertaken was sufficiently serious to constitute misconduct. In reaching this conclusion, the panel noted that the claims had been made over a significant period of time. Whilst some of the claims for mileage, which had not been undertaken on the dates specified, had been made in a single submission, the panel considered that it was incumbent upon the social worker to ensure that each item of mileage claimed was accurate.
59. The inclusion of mileage claims over a significant period including claims for dates such as Saturdays (a day upon which the social worker would not usually work) appeared to evidence a cavalier attitude to the mileage claims. The panel acknowledged that the social worker had not financially benefited from the mileage claims but did not consider this negated the misconduct. The panel considered that the failure to check the accuracy of the mileage claims which involve financial claims from public funds was therefore in itself sufficiently serious to constitute misconduct.

Submissions and evidence on impairment:

60. Having determined that Mrs Wilson’s conduct amounted to misconduct, the panel went on to consider whether Mrs Wilson’s fitness to practise was impaired.
61. Social Work England did not adduce any witness evidence at the impairment stage.
62. Mrs Wilson gave evidence under affirmation and called 3 supporting witness SPH (current team manager), JR (service manager) and CD (former manager).

Social Worker’s Evidence

63. Mrs Wilson indicated that prior to 2019 there had been no concerns in relation to her fitness to practise. Mrs Wilson explained that at the time of her misconduct she was facing very difficult circumstances in her personal life and also at work.
64. At the time of her misconduct Mrs Wilson’s work role had developed; she had a mixture of casework and development work arising as a result of procurement decisions to purchase new separate case management systems for children’s and adult’s services. Uniquely Mrs Wilson’s team spanned both directorates and therefore work needed to be undertaken to ensure a smooth transition. Mrs Wilson had also been asked to prepare an

investigatory report. Additionally, there were other pressures such as staff shortages and the need to prepare for an OFSTED inspection.

65. The preparation of the investigatory report was something Mrs Wilson found emotionally draining, it was not a type of work she had undertaken previously. The subject matter was challenging (it related to a death). Mrs Wilson felt unsupported and believed that she was being given conflicting advice by senior colleagues in relation to whether to prioritise the preparation of the investigatory report or her casework.
66. [PRIVATE]
67. [PRIVATE]
68. [PRIVATE]
69. Mrs Wilson confirmed that she deeply regretted the decisions she made, realised she had let many people down and had broken their trust. She expressed feelings of deep shame and guilt as a consequence of her actions.
70. Mrs Wilson accepted that she should not have taken the time off work in the way she did and there were alternatives open to her. Mrs Wilson stated that she loved her job and wanted to support her team.
71. Since the incident Mrs Wilson indicated she had spent time reflecting on her actions [PRIVATE]. The support of friends, family and colleagues has helped her learn from the experience and develop strategies to ensure that there is no risk of repetition of dishonest behaviour, or her failing to keep records up to date.
72. Mrs Wilson stated she had taken positive steps such as ensuring she takes time out if faced with a challenging encounter, she ensures she has regular supervision sessions with her manager and talks openly with her manager in the event of any concerns. She ensures her diary, flexi sheets and mileage are always up to date and will ask for help if needed.
73. Mrs Wilson stressed that her actions were not for financial gain, she made early admissions in relation to the facts and fully engaged with the Social Work England investigation.
74. [PRIVATE]
75. Mrs Wilson drew the panel's attention to the fact that not all of her supervision sessions had been signed as being agreed by her and she did not feel that the supervision records accurately reflected all matters discussed and in some circumstances were inaccurate e.g. in relation to cases being taken off her to enable her to complete the investigatory report.
76. [PRIVATE]
77. Mrs Wilson was questioned in relation to whether she accepted that she had deliberately put in diary entries to mislead her manager into believing that she was at work, in

addition to making flexitime claims for hours she had not worked. When giving her oral evidence Mrs Wilson was unable to recall whether the first three home visits recorded in her diary were visits that had been put in and subsequently re-arranged, but was able to confirm that she did recall that she had put the last visit (25 July 2019) into her diary to make it appear she was on a visit to a service user at a time she was not. Mrs Wilson acknowledged that re-arranging visits at short notice could have a potentially negative impact upon service users who would have been anticipating her visit.

78. In her initial response to the Social Work England investigation Mrs Wilson accepted that the diary entries had been falsely made.
79. Mrs Wilson confirmed that she had completed an 18 month action plan focussed on the concerns identified following the internal disciplinary proceedings brought by her employer. The action plan commenced in January 2020 and was signed off following Mrs Wilson's successful completion on 22 July 2021.
80. Mrs Wilson completed a number of training courses including safeguarding training and record keeping.
81. In her current and previous roles Mrs Wilson asserted that she does not have any responsibility for signing off other employees' expenses claims and is just responsible for the submission of her own expenses which she is now managing appropriately.
82. Mrs Wilson recognised that managers need to know where their team are to ensure that they are safe and that actively misleading her manager as to her whereabouts could have had adverse health and safety implications. Mrs Wilson also accepted that service users could be negatively affected by re-arranging appointments at short notice.
83. Mrs Wilson explained that she saw her role as a social worker to be there to help the public, which included working with vulnerable individuals. Mrs Wilson accepted that if made aware of her misconduct the public would want to be reassured that her behaviour would not be repeated.
84. Mrs Wilson further submitted that the public interest would be best served by her continuing to practise as she had done for the past 3 and a half years since the investigatory process commenced.

SPH (current team manager) Evidence:

85. SPH held direct line management responsibility for Mrs Wilson since joining the team in October 2022. She considered Mrs Wilson to be honest, open and supportive of colleagues.
86. SPH had no concerns in relation to Mrs Wilson's professionalism, ability to communicate effectively with professionals, service users and management.
87. SPH found Mrs Wilson to be transparent and open and able to seek out support if needed.

88. SPH confirmed Mrs Wilson carried a complex caseload and had been able to manage this to a very high standard.
89. SPH considered that Mrs Wilson had demonstrated resilience in dealing with a complex caseload.
90. SPH found Mrs Wilson to have been very honest with her in relation to the Social Work England investigation and considered her current standard of practise to be very high.

CD (Former Manager) Evidence:

91. CD had no concerns in relation to Mrs Wilson during the time she line managed her between April to July 2021, she found Mrs Wilson to be a well respected, conscientious and well liked member of the team.
92. CD had no concerns in respect of Mrs Wilson's record keeping, her reports were always good and submitted on time, her case recording was carried out promptly or if it could not be recorded for any reason Mrs Wilson would always make her aware of this in good time.
93. CD confirmed that Mrs Wilson carried a large complex caseload which she was able to manage effectively. Mrs Wilson's experience was valued and she was a support to junior members of the team.
94. CD had oversight of Mrs Wilson's action plan and was happy with her progress whilst subject to this. CD confirmed that Mrs Wilson sought out appropriate training opportunities and described her as doing more training than the average social worker as she was keen to learn and conscientious.
95. CD found Mrs Wilson to be open about her progress, very reflective and keen to learn from her experiences; she believed service users could trust her.

JR (Service Manager) Evidence:

96. JR has known Mrs Wilson since she joined the team in 2019 and has held line management responsibilities for the manager who oversaw Mrs Wilson's action plan. JR confirmed the manager responsible for the action plan had reported to her that Mrs Wilson was fully engaged within the plan. Mrs Wilson was visually present in the office, her diary was kept up to date and there were no concerns in relation to her record keeping, or availability.
97. JR was more than happy to sign off the action plan as she was satisfied that Mrs Wilson had taken on board concerns raised. JR's experience of Mrs Wilson was that she was an articulate, child focussed, honest and trustworthy social worker who kept case records up to date.

Social Work England submissions on Impairment:

98. Miss Bucklow provided the notes upon which her submissions on impairment were made to the panel and Mrs Wilson.

99. In summary, Social Work England accepted that this was not a case where the social worker currently posed a risk to the safety of Service Users or their well-being. Social Work England did not seek to adduce evidence that Mrs Wilson's competence or performance was in anyway substandard. Social Work England's position was that a finding of impairment was necessary to maintain public confidence, and to promote and maintain proper professional standards.
100. Miss Bucklow highlighted that probity is a fundamental tenet of the social work profession. Social workers hold a position of responsibility, have access to highly sensitive information, work with some of the most vulnerable sectors of society and make decisions that significantly impact the lives of others. It is therefore imperative that they are trustworthy and honest, any acts of dishonesty are serious because they significantly undermine public confidence in the profession.
101. The dishonesty in this case spanned a significant period of time involving a number of time sheets, and diary entries between March 2019 and 25 July 2019. During that period the Social Worker repeated that behaviour until caught. Miss Bucklow submitted that the diary entries were made to cover her whereabouts which demonstrate an element of planning, and a conscious thought process. Those entries that may be genuine indicate that an appointment with a service user was cancelled at the last minute for the Social Worker to take unauthorised leave.
102. With regard to the timing of Mrs Wilson's admissions, in her evidence initially Mrs Wilson described her actions as a panic decision and not a conscious decision, but upon further questioning it was apparent that she had made diary entries to conceal her absences, and this would indicate some conscious thought.
103. There was an element of personal gain. Whilst the circumstances were unfortunate – it meant she did not have to seek authorised time off, this also meant Mrs Wilson did not need to work the hours back should she not want to. There is therefore a gain over colleagues who have to seek authorised leave.
104. Miss Bucklow submitted that a finding of impairment was required to show that dishonesty brings the profession into dispute and will attract regulatory action, it was also required to recognise that dishonesty is a very serious breach of the professional standards.

Legal Advice Impairment

105. The panel received and accepted legal advice in respect of impairment. The panel was reminded that the issue of impairment was a matter of judgement for the panel and that it was necessary to have regard to the personal and public components together with the wider public interest. The wider public interest includes protecting service users,

protecting public confidence in the profession and the regulatory process and declaring and upholding proper standards of conduct and behaviour.

106. The panel was advised that there is no statutory definition of impairment of fitness to practise. However, the panel was directed to a number of cases containing judicial guidance on the matter of impairment including *CHRE v NMC & Grant [2011] EWHC 927 (Admin)*.

"In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant 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".

107. In addition, the panel was further directed to the test formulated by Dame Janet Smith in her Fifth report from Shipman which is set out below.

"Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:

- a. has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b. has in the past brought and/or is liable in the future to bring the medical 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 medical profession; and/or*
- d. has in the past acted dishonestly and/or is liable to act dishonestly in the future."*

108. The panel's attention was drawn to the case of *Cheatle v GMC (2009) EWHC 645 (Admin)* in which Justice Cranston stated:

"The [practitioners] misconduct at a particular time may be so egregious that, looking forward, a panel is persuaded that the [practitioner] is simply not fit to practise ... without restrictions, or maybe at all. On the other hand, the [practitioners] misconduct may be such that, seen within the context of an otherwise unblemished record, a Fitness to Practise Panel could conclude that, looking forward, his or her fitness to practise is not impaired, despite misconduct."

109. The panel was advised to have regard to the extent to which the alleged misconduct can be and has been remediated. In *Cohen v GMC (2008) EWHC 581 (Admin)*, the principle was expressed in the following terms:

“It must be highly relevant in determining if a [practitioner’s] fitness to practice is impaired that first his or her conduct which led to the charge is easily remediable, second that it has been remediated and third that it is highly unlikely to be repeated”.

Finding and reasons on current impairment:

110. When considering the question of impairment, the panel took into account Social Work England’s ‘Impairment and sanctions guidance’ December 2022, the witness evidence, the submissions of all parties and the written evidence contained within the hearing bundle.
111. The panel recognised that not every case of misconduct would necessarily result in a finding of impairment. The panel also recognised that when considering impairment the panel needed to assess current impairment to form a view in respect of impairment at this point in time.
112. When making their decision the panel considered the 2 elements to impairment, the personal and the public element.

Personal Impairment

113. In relation to personal impairment the panel considered whether Mrs Wilson’s conduct was easily remediable, whether it had already been remedied and whether it was likely to be repeated in the future.
114. The panel accepted that there was no evidence service users had been put at risk as a result of Mrs Wilson’s conduct.
115. The panel accepted that in cases of dishonesty, remediation may be difficult to demonstrate and may carry less weight. The panel took into account that Mrs Wilson had enjoyed a long and otherwise unblemished social work career and had fully engaged with her employer’s action plan which had been put in place following an internal investigation.
116. The panel took into account that Mrs Wilson had co-operated with her employer’s investigation and the Social Work England investigation and had made a number of admissions in respect of her wrongdoing at an early stage.
117. The panel accepted the evidence of Mrs Wilson’s 3 witnesses who consistently confirmed that Mrs Wilson was a highly regarded employee, there were no current concerns with regard to her record keeping or overall honesty and she had positive relationships with colleagues and service users.
118. The panel accepted that Mrs Wilson had carried out reflective work and undertaken additional training above and beyond the mandatory training required. The panel considered that Mrs Wilson had remediated as far as possible with her current employer.

119. [PRIVATE]
120. Having heard directly from Mrs Wilson in respect of the impact of her actions, her reflections and the positive observations from those who have managed her, including at times when Mrs Wilson had been subject to a complex caseload whilst experiencing professional stress, the panel was satisfied that the risk of a repetition of misconduct was low.
121. The panel therefore determined that there was no personal impairment.

Public Impairment

122. Having considered that Mrs Wilson was not personally impaired the panel went on to consider whether a finding of impairment was necessary to promote and maintain public confidence in social workers and proper professional standards.
123. The panel was satisfied that a finding of impairment was necessary to uphold professional standards and public confidence in the profession on the basis of the dishonest misconduct found. This decision was made for the following reasons.
124. The regulatory concerns related primarily to dishonesty. The dishonesty although limited to 4 occasions was not an isolated incident, it occurred over a 5 month period and only appeared to stop when uncovered by Mrs Wilson's manager.
125. The dishonesty involved misleading a manager as to her whereabouts including making false diary entries. Whilst the panel accepted that this was not for financial gain, Mrs Wilson's conduct led to a personal gain in that it enabled her to take time off when she wanted rather than seek management approval.
126. Whilst Mrs Wilson had outlined her difficult personal circumstances at the time of the dishonesty and offered some reflections, the panel considered that her insight was still developing, particularly in relation to the impact of her actions on the wider public in terms of confidence in the social work profession and its regulator.
127. Mrs Wilson's early admissions of wrongdoing and reflective work was to her credit. The panel also took into account Mrs Wilson's difficult personal circumstances, but noted that mitigation may have a limited role in cases of dishonesty. However, the panel considered the falsification of records and dishonesty in a professional context so serious that a finding of public impairment was necessary.
128. The panel considered that public confidence would be significantly undermined in the event impairment was not found. The panel considered honesty to be a key component in social work. Social workers have access to some of the most vulnerable people in society, this includes access to their personal data and financial information. The public and other agencies who work alongside social workers such as the police and courts need to be able to trust the information supplied to them by social workers.
129. The panel considered that a member of the public knowing the background to this matter would be shocked in the event that a finding of impairment was not made. Therefore, in

order to ensure continued public confidence in the regulatory process and mark the seriousness of dishonesty the panel considered it necessary to make a finding of impairment in the public interest.

Social Work England position on sanction:

130. Miss Bucklow provided a note on which her oral submissions were based to the panel, Mrs Wilson and the legal adviser. Mrs Wilson was given time to reflect on the submissions prior to making her own submissions on sanction.
131. In summary, Miss Bucklow reminded the panel of the need to bear in mind their statutory overarching objective which involves the requirement to promote and maintain the health, safety and wellbeing of the public, to promote and maintain public confidence in social workers and to promote and maintain proper professional standards for social workers.
132. The panel was directed to the principle set out in the case of *Bolton v Law Society* [1994] 1 WLR 512 which stated:

"The reputation of the profession is more important than the fortunes of any individual member. Membership of a profession brings many benefits, but that is part of the price."
133. Miss Bucklow advanced that taking no action, providing advice or a warning would be insufficient due to the aggravating factors present in this case. Conditions of practice were deemed inappropriate due to the difficulty in drafting workable conditions to address character or attitudinal issues.
134. Miss Bucklow, referring to the case of *GMC v Theodoropolous* [2017] EWHC 1984 (Admin) submitted that dishonesty is at higher end of misconduct and even a one off incident can lead to a removal as it threatens public confidence in the profession. Mrs Wilson's conduct was not isolated in nature, it was repeated conduct and represented a pattern of behaviour at that time which was to lie about her working hours to cover the fact she had been leaving work before her finishing time to tend to difficult personal matters. Mrs Wilson had accepted that some of the diary entries were entered to deliberately conceal that she was not at work. Those entries that may be genuine indicate that an appointment with a service user was cancelled at the last minute to enable Mrs Wilson to take unauthorised leave.
135. Mrs Wilson's conduct as set out above marks a significant breach of the HCPC standards of conduct, performance and ethics. It is imperative social workers are trusted due to their position of responsibility. Acts of dishonesty are serious because they significantly undermine public confidence in the profession.
136. Miss Bucklow indicated that the appropriate sanction was therefore a period of suspension for not less than 6 months to recognise the public confidence issues, uphold trust in the profession and uphold trust in the regulation of that profession.

Mrs Wilson's position on sanction

137. Mrs Wilson accepted her actions were serious, she was remorseful and highlighted that she had made early admissions accepting her wrongdoing and the consequences.
138. Mrs Wilson pointed out that there had not been any concerns in respect of her conduct throughout the 46 month investigatory process. Mrs Wilson believed she has remediated as far as possible.
139. Mrs Wilson had successfully completed her employer's 18 month action plan and had made clear and substantial improvements which had been verified by her 3 witnesses.
140. At the time of the misconduct Mrs Wilson was under a great deal of personal stress.
141. As a consequence of the lengthy Social Work England investigation and the amount of time it has taken for the case to reach a final hearing she felt that she has been deskilled and noted that she had been unable to accept a promotion due to being under investigation.
142. Mrs Wilson believed that a period of suspension would lead to further deskilling, she was of the opinion that the public interest would be best served by allowing her to continue to work in her current role.

Legal Advice on sanction

143. A panel may impose a sanction on a social worker to ensure (either or both of the following): (i) public protection – where there is a direct risk of harm to others, including service users, colleagues or members of the public (ii) public interest to promote and maintain confidence in the social work profession and proper professional standards. Considering the panel's findings at earlier stages the sanction in this case should address the public interest limb as there is no suggestion that Mrs Wilson poses a risk of harm to others or is in anyway deficient in the way she is currently undertaking her role.
144. The panel was reminded that when considering the public interest element there may be a public interest in permitting a registrant to continue to practise their profession for the public good, provided of course, that interest is not in conflict with their primary public interest objectives.
145. The panel was advised that although sanction decisions are at the panel's discretion, it was important to refer to the Social Work England impairment and sanctions guidance. (December 2022). The panel was reminded that it must weigh up and balance the interests of the public with those of Mrs Wilson and in so doing, impose no greater restriction on her ability to practise her profession than is necessary to achieve their public interest objectives.
146. As the primary purpose of imposing sanctions is the wider public interest, mitigating factors may carry less weight. It is for this reason that even where a social worker is unlikely to pose a direct risk to the public, is unlikely to re-offend in the same manner and

has accepted full responsibility for her actions from the beginning, it may still be necessary to impose a sanction in the interests of maintaining public trust and confidence.

147. The panel was advised that it may wish to take into account the fact that disciplinary proceedings have hung over Mrs Wilson for a number of years as a relevant factor when considering sanction. It is well established that Article 6 ECHR applies to professional disciplinary proceedings. In *Selvarajan v General Medical Council (2008) EWHC 186 (Admin)* Blake J observed that if delay causing a breach of Article 6 was irrelevant to penalty in disciplinary proceedings, the consequence should be that many more proceedings in which there has been a delay should be stayed as a breach of fair trial rights because disciplinary proceedings would have less capacity to remedy delay by an adjustment of penalty in appropriate cases.

Panel's decision on sanction:

148. In considering the appropriate sanction, the panel had regard to its earlier findings of misconduct. It was mindful of the need to act proportionately and carefully considered the Social Work England impairment and sanctions guidance, the caselaw, submissions of the parties and all the evidence provided.
149. The panel was mindful that its finding of impairment to fitness to practise was made on public interest grounds, the panel had concluded that Mrs Wilson was not impaired on the personal element and did not pose a risk to service users.
150. The panel considered the aggravating and mitigating factors present.

Mitigating factors:

151. Mrs Wilson had enjoyed a lengthy social work career. Prior to the misconduct in 2019, there is no evidence that there were any concerns in relation to her fitness to practise. Following the 5 month period, during which she accepts her conduct was unacceptable, Mrs Wilson continued to work without restriction as a social worker and there have been no concerns raised in relation to her conduct during this time.
152. Mrs Wilson remains with the same employer and was able to call 3 senior colleagues who had direct experience of working with her. Mrs Wilson's witnesses provided unchallenged evidence that she was a highly regarded, competent and valued social worker operating in a demanding working environment. Mrs Wilson is currently employed as a front line child protection social worker.
153. Mrs Wilson made early admissions in respect of the facts, fully engaged with her employer's investigation and satisfactorily completed an 18 month action plan which had been signed off by a senior colleague who had no concerns in relation to her probity. The action plan had involved Mrs Wilson being subject to increased scrutiny and was targeted to address the misconduct which was the subject of these proceedings.

154. The misconduct occurred at a time Mrs Wilson was facing significant pressures in both her work and home life.
155. [PRIVATE]
156. The dishonest actions were not motivated by financial gain.
157. Mrs Wilson had been able to demonstrate remediation and some insight into the impact of her behaviour and its impact on others.
158. Mrs Wilson had been subject to regulatory proceedings for some 3 and a half years.

Aggravating Factors

159. There was a pattern of dishonesty, it was not a one-off occurrence.
160. The dishonesty extended over a number of months.
161. The dishonesty involved a breach of trust. Mrs Wilson was a highly experienced social worker and held a position of trust as an assistant team manager, she should have been setting a positive example to her team.
162. The nature of the dishonesty, although limited to 4 occasions, was concerning in that it involved Mrs Wilson actively seeking to deceive her manager and others in relation to her whereabouts and the falsification of records to achieve this. Not only were her timesheets falsified but her diary entries were also falsified to make it appear she was somewhere she was not.
163. In addition to falling short of professional standards, Mrs Wilson's behaviour was also contrary to her employer's policies and procedures e.g. lone working policy.
164. Whilst Mrs Wilson had demonstrated a degree of insight in relation to her actions, the panel considered that her insight particularly with regard to the impact of her actions on the wider public could be further developed. It appeared to the panel that Mrs Wilson's insight had developed throughout the hearing. During the hearing, Mrs Wilson accepted the negative impact the cancellation/rearrangement of a meeting at short notice could have had on service users and her mitigating circumstances did not justify her actions.
165. The panel considered that as a highly experienced social worker with experience of working as an assistant team manager Mrs Wilson should have known better.

Panel's Analysis

166. Having taken into account the aggravating and mitigating factors present, the panel went on to consider the appropriate sanction starting with the least restrictive sanction first.
167. The panel concluded that to take no further action or to give advice would not be proportionate or appropriate given the nature of the misconduct. Honesty is a fundamental tenet of social work, it is imperative that colleagues, the public, other agencies and professionals are able to rely on information provided to them by social workers. Therefore, the panel considered that taking no further action or providing

advice would not sufficiently mark the seriousness of the misconduct and would not be sufficient to maintain confidence in the profession and the regulatory process and would not uphold proper standards.

168. The panel next considered the imposition of a warning order. The panel considered that a warning order would demonstrate a clear disapproval of the social worker's conduct and would signal to Mrs Wilson that she would be highly likely to receive a more severe sanction if there was any repeat of the behaviour.
169. The panel took into account that the misconduct in this case had taken place over a limited period, during a time of particular stress for Mrs Wilson, and was in the context of an otherwise unblemished social work career. The panel considered the risk of a repetition of the misconduct to be low in light of the reflective work carried out and the strategies Mrs Wilson had put in place following the incidents to ensure that in the event she became subject to similar stressors in the future she would be able to deal with the situation appropriately. The panel also noted the high regard Mrs Wilson was held in by her employer not only in terms of her professional competence but also regarding her probity which was demonstrated in her continued employment and the positive testimonials provided by her witnesses.
170. The panel shared the view of Social Work England that conditions of practice would not be appropriate in this case as it would be difficult to formulate any workable conditions of practice to address dishonesty.
171. The panel considered that the imposition of a suspension order as requested by Social Work England would not be appropriate or proportionate in this case given that a lesser sanction can adequately address the public interest concerns in this case. The panel took into account that the disciplinary proceedings had already hung over Mrs Wilson for a number of years and that whilst subject to the fitness to practise proceeding Mrs Wilson had not been able to progress her career.
172. The delay in hearing this matter was not attributable to the conduct of Mrs Wilson, she had made admissions to her employer and Social Work England promptly. The panel considered that the wider public interest could be effectively served by permitting Mrs Wilson to continue to serve the public by continuing to carry out her valuable child protection role.
173. The panel considered that a member of the public fully aware of the circumstances of this case would be of the opinion that a warning order would be sufficient to send a strong message of disapproval in respect of her conduct and that an order preventing her from working for a specified period would be disproportionately harsh, particularly in light of the fact that she had been working since the incident for over 3 and a half years without restriction and with no concerns as to her probity or risk to service users.

Warning Order

174. Having determined a warning order to be the most appropriate sanction, the panel went on to consider the length of the order. The panel first considered a 1 year warning order.

The panel considered that a 1 year warning would be insufficient due to the seriousness of the dishonesty which was not an isolated incident. The panel next considered a 3 year order, but again felt that this would not reflect the seriousness of the misconduct. Having regard to the guidance given at paragraph 159 of the Social Work England impairment and sanctions guidance and the relevance of confidence in the profession as set out in the case of *Bolton v Law Society* [1994] 1 WLR 512 the panel considered a 5 year warning order would be an appropriate and proportionate sanction sufficient to protect the public and maintain confidence in the profession and uphold professional standards. The panel considered this to be a serious case which had fallen only marginally short of requiring a restriction of practice for the reasons set out above.

175. You are reminded of the need to comply with Social Work England's professional standards 2019 and in particular:
176. 2.1 – Be open, honest, reliable and fair.
177. 5.2 – As a social worker, I will not behave in a way that would bring into question my suitability to work as a social worker while at work, or outside of work.
178. 5.3 – As a social worker, I will not falsify records or condone this by others.
179. Any further matters brought to the attention of the regulator are likely to result in a more serious sanction.

Right of appeal:

180. 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.
181. 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.
182. 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.

183. 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:

184. 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
185. 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:

186. 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>.