

Social worker: Nadeem Afzal

Registration number: SW20426

Fitness to Practise

Final Hearing

Dates of hearing: 15 May 2023 to 17 May 2023

Hearing venue: Remote hearing

Hearing Outcome: Fitness to practise impaired, removal order

Interim Order: Interim Suspension order (18 months)

Introduction and attendees:

1. This is a hearing held under Part 5 of The Social Workers Regulations 2018 (as amended) (“the Regulations”).
2. Mr Afzal attended and was represented by Ms Christina Ramage, representative from the British Association of Social Workers (“BASW”).
3. Social Work England was represented by Mr Adrian Harris, case presenter from Capsticks LLP.
4. The adjudicators (“the panel”) and the other people present at the hearing are set out in the table below.

Adjudicators	Role
Kerry McKeivitt	Chair
Rosemary Chapman	Social worker adjudicator
Melissa Forbes-Murison	Lay adjudicator

Simone Ferris	Hearings officer
Wallis Crump	Hearings support officer
Natalie Amey-Smith	Legal adviser

5. The identification of the witnesses in this case are as follows:
 - JT, a registered social worker, who at the time of the allegations was a manager for New Life Fostering.
 - EE, a registered social worker, who at the time of the allegations was a manager for Ideal Fostering.
 - MB, a registered social worker, who at the time of the allegations was a Children in Care Social Worker for Birmingham’s Children’s Trust.

Allegations:

6. The allegation arising out of the regulatory concerns referred by the Case Examiners on 28 September 2021 is as follows:

‘Whilst registered as a social worker:

1. Between 18 March 2019 and 21 July 2019, you failed to conduct a file check of Foster Carer A’s file held by the previous foster care agency.

2. On or around 12 July 2019, you submitted false and/ or misleading information on a Form F assessment completed for Foster Carer A, in that you:

- a. Stated that you had conducted a file read, when you had not;*
 - b. Stated that the reference provided by the previous foster care agency did not corroborate what was recorded on file and/ or was contradicted by the files, when in fact the file was consistent with the reference provided;*
 - c. Indicated that the previous foster care agency files gave a positive impression of Foster Carer A, when in fact this was not true;*
 - d. Stated that Colleague A had 'no concerns' with Foster Carer A's care of the children and they 'did not recognise any of the concerns relayed' by the previous agency, when these comments were inaccurate and untrue;*
 - e. Stated that there were no upheld concerns from reading the files, when you had not read the files.*
- 3. On 20 July 2019, you provided false and/ or misleading information during a panel meeting in respect of Foster Carer A, in that you:*
- a. Failed to state that you had not conducted a file check of Foster Carer A's file held by the previous foster care agency and/ or implied that you had done so;*
 - b. Stated that the Local Authority Social Worker, Colleague A, did not share the previous foster agency's concerns or have any issues in respect of Foster Carer A's conduct, or used words to that effect;*
 - c. Implied that the previous foster care agency's reference was inaccurate and/ or should not be relied upon.*
- 4. Your conduct at paragraphs 2 and/ or 3 was dishonest.*
- 5. Between 19 December 2019 and 21 January 2020, you failed to inform Social Work England that Ideal Fostering had stopped engaging you as an Independent Form F Assessor and had withdrawn assessments from you.*

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

By reason of misconduct, your fitness to practise as a social worker is impaired.'

Admissions:

- 7. 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.'
- 8. Following the reading of the allegations the Panel Chair asked Mr Afzal whether he admits any of the allegations.
- 9. Mr Afzal informed the panel that he fully admits all of the allegations.

Background:

10. On 20 January 2020, Social Work England received a referral from JT regarding Mr Afzal. The referral alleged that Mr Afzal, who had been completing Form F foster carer assessments as an independent social worker for both New Life and another agency, Ideal Fostering, had falsely and dishonestly compiled an assessment for Ideal Fostering in respect of a foster carer.

Submissions on Facts:

Social Work England

11. Mr Harris referred the panel to his statement of case and set out the factual matrix of the case.
12. In order to approve potential foster carers, an agency will carry out a fostering assessment following an enquiry being made by the individuals to the agency. Following that assessment, the application will proceed to a fostering panel who consider their recommendation before an Agency Decision Maker can decide to approve the foster carer.
13. The assessment process is a rigorous one. It involves a number of checks, including the Disclosure and Barring Service, the Local Authority, Local Authority Designated Officer ('LADO'), and any employer.
14. As part of the process, an in-depth Form F assessment is undertaken. A social worker must complete that assessment. Both New Life and Ideal Fostering use a pool of independent social workers to conduct assessments. The Form F assessment is an in-depth process, involving multiple visits by the appointed social worker to the prospective carer. The appointed social worker will be able to consider any areas requiring further exploration. The process is required to be thorough as it relates to the suitability of carers to care for vulnerable children.
15. If an applicant carer has previously fostered, then the social worker would need to obtain a reference from the agency where the applicant carer was registered previously and would also review their files. The social worker is responsible for viewing the files from any previous agencies, for writing the final report, attending to present it to the fostering panel and answers any questions that arise as part of the panel's exploration of the issues. The social worker will recommend whether the applicant should be approved to foster.
16. A foster carer cannot be registered with more than one agency at the same time. However, a foster carer can resign from an agency or be de-registered before applying to a separate agency. It is therefore essential to check with previous agencies to ensure there were no concerns about the foster carer's conduct.
17. Mr Afzal was employed by New Life Fostering as an independent Form F Assessor from February 2018. He held another social work position with Birmingham Children's Trust but taking on an additional role was not uncommon. He was experienced in completing such

assessments and was provided with a further copy of an appropriate textbook. New Life had been impressed with Mr Afzal's assessments when he worked for them. He was clearly able to carry out the required work.

18. Foster Carer A had been an approved foster carer with New Life Fostering. The first child to be placed with her remained there for approximately two weeks but there were frequent issues, including Foster Carer A physically restraining the primary school-aged child, before the child was moved from her home on 4 January 2019. New Life offered training and reflection, and Foster Carer A indicated she had benefited from that. Further children were then placed with her on an emergency basis on 13 February 2019, but after a positive start to the placement, Foster Carer A telephoned New Life out-of-hours number asking for the three siblings to be removed on 18 February 2019. She was shouting and screaming while on the telephone. A member of staff visited and expressed grave concerns about her mental stability and so did not leave until the children were asleep.
19. JT went to Foster Carer A's address the following morning to support moving the children. Foster Carer A had locked the door with the children inside, who were banging on the windows to be let out. Foster Carer A's behaviour was described as irrational, and she would not calm down.
20. Foster Carer A resigned from the agency the same day that the children were moved, on 19 February 2019. An internal enquiry was undertaken by New Life. It notes that Foster Carer A did not meaningfully respond to requests to schedule a placement end meeting. The internal enquiry report concludes that had she wished to continue, Foster Carer A would not be recommended for re-approval as a foster carer, referring to her difficulty in managing challenging behaviour and stressful situations, plus her not always working openly or cooperatively with New Life. New Life took the decision to de-register Foster Carer A from the agency following a panel unanimously agreeing that she was not suitable to continue as a foster carer.
21. Mr Afzal approached Ideal Fostering in early 2019 to enquire as to vacancies for independent social workers and after appropriate recruitment checks he was taken on.
22. Foster Carer A had approached Ideal Fostering with a view to being approved as a foster carer. Mr Afzal was contracted to complete the Form F assessment in respect of the application. Mr Afzal was allocated the case from 19 March 2019. This was the first assessment he carried out for Ideal Fostering. It was known that Foster Carer A had previously fostered for New Life Fostering; Mr Afzal observed that he had worked with New Life Fostering before and he described that it was not a positive experience, but he confirmed that he was happy to complete the assessment and would work with them.
23. Mr Afzal raised an issue by email to a Team Manager with Ideal Fostering on 25 April 2019 that he was having difficulty contacting New Life. On 26 April 2019, the Team Manager advised Mr Afzal that she had the same difficulties but that hopefully Mr Afzal would be able to arrange with New Life to view Foster Carer A's files soon.

24. It is necessary for a social worker to view files relating to an applicant carer held by a previous agency. Fostering agencies are governed by the Fostering Regulations and National Minimum Standards, which set out minimum standards to observe with regard to fostering. This includes processes that should be followed when assessing prospective carers and that files held by previous agencies should be reviewed. Mr Afzal was aware that the files should have been reviewed, given the details set out on the contract and the standard Form F, his experience and his email indicating there had been delays with contacting New Life.
25. No further problems were raised by Mr Afzal in connection with him arranging a file check for Foster Carer A at New Life.
26. JT did provide a reference to Ideal Fostering on behalf of New Life Fostering. The content of the reference is set out within the Form F Assessment submitted by Mr Afzal. The reference sets out the concerns raised by New Life in some detail including stating '*A copy of the review paperwork, feedback sought, Panel Minutes and ADM decision report are held on [Foster Carer A]'s file and if considering [Foster Carer A] as a foster carer for your Agency, I would highly recommend requesting a file reading appointment.*'
27. Mr Afzal did not carry out a file read, took a contrary view to the content of the reference, and provided the Form F assessment to EE with a positive recommendation for Foster Carer A. He signed and dated his assessment being completed on 12 July 2019. EE then carried out a quality assurance check, as is standard practice, but was reliant upon the information provided by Mr Afzal.
28. The Form F Assessment completed and submitted by Mr Afzal contained a number of inaccuracies. The aim and effect of these inaccuracies were to discredit the reference provided by New Life and encourage any reader to prefer what Mr Afzal had indicated Foster Carer A had told him, which was to provide a version of events that was wrongly favourable to her.
29. Mr Afzal falsely set out in multiple places within the Form F that he had conducted a file read of the New Life files, plus falsely adding a narrative that the files did not justify the negative reference provided. The section setting out Mr Afzal's analysis of the New Life reference was a detailed explanation of why he undermined and discredited it, based upon what he asserted was the content of the New Life files themselves.
30. Mr Afzal also referred in the Form F to having had a conversation with MB, who was the Local Authority Social Worker for the three children placed with Foster Carer A in February 2019. She was involved in removing the children from Foster Carer A. Within the Form F assessment, Mr Afzal falsely set out that:
 - '*[MB] had no concerns with '[Foster Carer A]'s care of the children, but felt that with the right support, she could have provided a long-term placement.*'
 - '*[Foster Carer A]'s previous fostering experience with New Life was a negative experience, though she received positive comments and compliments from the Social Workers who worked with her on the two placements she provided.*'

- *'[MB] shared that she did not recognise any of the concerns relayed to Ideal by New Life.'*

31. MB formed the view that she did not think that Foster Carer A had the ability to be an efficient and patient foster carer, which she endorsed on the feedback form submitted to New Life dated 28 March 2019. She added on the form that Foster Carer A *'should not be considered to foster any more children until she has addressed her own personal issues.'*
32. MB sent an email to JT on 28 March 2019, setting out her views in strong terms, describing Foster Carer A as *'one of the worst foster carers I have ever encountered'*.
33. MB did not know Mr Afzal, but she did speak to him once by telephone, when he called her during his Form F assessment process of Foster Carer A. He sought feedback on her experience with Foster Carer A, and MB told him the views she had expressed in the feedback form – specifically referring to Foster Carer A being unprofessional and that she would not recommend Foster Carer A unless she had undergone further training.
34. Based upon the Form F assessment completed and submitted by Mr Afzal, Foster Carer A's application was put before a panel, with the recommendation being that Foster Carer A was accepted as a foster carer. This was subsequently agreed by the agency decision maker. The panel meeting was held on 20 July 2019. The notes set out that the following took place:

'The reference provided by New Life was extremely negative and, although this had been explored in detail by the Assessor, Panel felt they would also like to explore this as it was so contradictory to the rest of the report and the other references that had been received.'
35. In the panel meeting, Mr Afzal was asked specifically *'What is your opinion of their reference after reading her files at New Life?'* and instead of stating the truth (that he had not read the files), Mr Afzal provided reassuring answers that provided a positive impression of Foster Carer A. This included the following: *'Nadeem advised that he had had conversations with the Local Authority Social Worker who did not share the agency's concerns or have any issues in respect of [Foster Carer A's] conduct.'*
36. The positive impression given by Mr Afzal included criticism of New Life's conduct in relation to Foster Carer A and that *'Nadeem believes there is no reason why Panel should have any concerns as to her ability to be a good Foster Carer.'*
37. Based upon the positive recommendation, the panel unanimously agreed to recommend that Foster Carer A was approved as a foster carer for Ideal Fostering. One panellist's reasons were *'I had my doubts initially but after speaking to both the Assessor and the Applicant I find her to be professional, intelligent and empathetic.'* Mr Afzal's written assessment and answers in the meeting were a significant part of persuading the panel to approve Foster Carer A.
38. In relation to the dishonesty, Mr Afzal knew that he had not read the New Life files. He was on notice of the content he was almost certain to find within those files because of the

content of the negative reference provided. Despite this, he chose to rely upon what Foster Carer A told him and provided to him.

39. On multiple occasions in writing and orally he created a misleading impression that the contents of the files were ill-founded and should not be relied upon. The Fostering panel relied upon this when approving Foster Carer A, when had they known the true position (that he had not read the files and/or that the reference was credible) it is inevitable they would not have done so.
40. Mr Afzal stood to preserve and/or gain both reputationally and or financially. Had the truth emerged earlier it may have impacted his reputation as a Form F assessor, may have resulted in payment not being made for this assessment and/or may have damaged his prospects of future work.
41. Consequently, he chose to conceal the true position and create a fabricated, detailed account of what he claimed he had read.
42. Following the approval of the application, Foster Carer A did foster children with Ideal Fostering. This was a sibling group of two children who she cared for from 27 August 2019 to 5 September 2019. Ideal Fostering was contacted via Out of Hours by the children's social worker, who had attended the address as part of the statutory visit requirements. That social worker reported that Foster Carer A became stressed during the visit, as it interrupted the teatime and bedtime routines, then became rude when answering questions, asking that social worker when she was leaving and refused to interact any longer, putting her hands over her ears. This was said to be in sight and hearing of the children, who appeared anxious and scared. The attending social worker reported that the children ought to be removed that evening. The on-call social worker agreed and attended the house to assist. Both social workers reported that Foster Carer A was acting erratically, playing music loudly and not listening.
43. JT subsequently learned that Foster Carer A had been approved by Ideal Fostering. Given the safeguarding concerns she had about Foster Carer A, she contacted Ofsted on 17 September 2019 by email. Ofsted later contacted her and asked whether Mr Afzal had visited New Life offices to conduct a file check, to which JT confirmed she was sure he had not and checked the visitors' book, which showed no such signature. There was also no confidentiality disclaimer on file, as would have been required.
44. Ofsted visited Ideal Fostering on 18 December 2019 regarding the complaint from New Life regarding Foster Carer A's approval. The inspector asked EE whether the Form F Assessor had read the New Life files. EE confirmed that he had, based upon what Mr Afzal had indicated during the assessment and approval process. However, she telephoned Mr Afzal and asked him about it. She informed him that Ofsted had asked to see his notes. Mr Afzal initially repeated that he read the files and that although his notes were at home, he could send them to EE later that evening.
45. During a subsequent call from EE to Mr Afzal, she told him that New Life had no record of him attending their office to carry out a file read. He told her that he did not view the files

and that having attempted to contact New Life but encountered difficulties, he did not visit their office. He referred to personal difficulties at the time, expressed regret for his actions and said that he should have told them about some difficulties he had been experiencing with New Life at the time. EE informed Mr Afzal that he was to be removed from the two current assessments he was completing and that they would be carrying out a review of the other assessment that he had carried out for them. He was also informed that he would no longer be working with Ideal Fostering and that they felt duty bound to report his professional conduct as a social worker to the appropriate authorities and would do so as soon as practicable. EE relayed this information to Ofsted by email dated 23 December 2019.

46. EE subsequently arranged to attend New Life offices and view the files of Foster Carer A. EE said that if that information had been reviewed prior to the panel meeting, she would have terminated the assessment and declined Foster Carer A's application. Her observation was that the behaviour recorded appeared to be identical to that experienced during their foster placement. EE's view is that Foster Carer A should never have been approved but was approved as a result of Mr Afzal's assessment. Following that, the children placed with Foster Carer A by Ideal Fostering suffered upheaval which could have been avoided.
47. On 20 December 2019, Mr Afzal provided photographs to EE showing documents provided to him by Foster Carer A during a visit. It appears he took at face value the limited/selected documents she showed him, which supported the positive impression she gave. However, the risk of such selectivity or tampering would have been obvious and regardless of any documents shown to him, he should have gone to New Life to see the files. In the event of genuine difficulty in seeing the files, assistance was available.
48. Foster Carer A resigned from fostering with Ideal Fostering during an investigation. On 24 February 2020, a review panel meeting was held to consider Foster Carer A's continued suitability for foster caring. The panel unanimously recommended the de-registration of Foster Carer A immediately.
49. Mr Afzal emailed EE on 23 December 2019 expressing his apology for bringing Ideal Fostering into disrepute. He did not take any steps to refer himself to Social Work England as required by paragraph 6.6 of Social Work England Professional Standards.
50. Mr Harris drew the panel's attention to the various written responses received from Mr Afzal during the Social Work England investigation. Mr Afzal provided written responses on 3 March 2020; 16 August 2021; 17 November 2022 and 9 May 2023. Mr Harris summarised the written submissions made by Mr Afzal. In summary Mr Afzal accepted the allegations against him but did not believe his practice was currently impaired. He did not wish to call any of the Social Work England witnesses. He had felt conflicted because he had been an assessor for New Life Fostering and did not want to jeopardise his relationship with them. He described his decision not to view the files as '*incomprehensible*' and accepted his actions to positively assess Foster Carer A placed children at risk of harm. He accepted he had lied to Ideal Fostering about viewing the files and instead based his recommendation on '*other checks*' he has conducted, having spoken to a Social Work Assistant. He admitted

failing to inform the regulator following both JT and EE informing him that his services were no longer needed in light of concerns about his practice. He asserted that he was told by EE on 27 January 2020 that she would be making a referral to Social Work England and thought that her referral would be sufficient, but accepted he should have referred himself to the regulator. He expressed his embarrassment, shame, and regret that his actions during the assessment period led to vulnerable children being placed at risk of harm. He stated he *'could not fathom'* why he had lied.

51. Mr Harris submitted that the panel should find facts proved based on Mr Afzal's admissions.

Mr Afzal

52. Ms Ramage made submissions on behalf of Mr Afzal. She said that whilst Mr Afzal does admit to allegation 5, the Social Work England guidance is open to interpretation and BASW have raised this with Social Work England. Mr Afzal was not under the impression that he had to refer to Social Work England and held the genuine belief that he did not have to do so as he believed a referral was being made.

Legal Advice

53. The panel heard and accepted the advice of the legal adviser in relation to the admissions made by Mr Afzal. The legal adviser reminded the panel that in the interests of fairness it should ensure that it is satisfied that Mr Afzal has not made the admissions for reasons of duress or expediency and that the admissions accord with the evidence before the panel in relation to the allegations.

Finding and reasons on facts:

54. The panel considered that the admissions made by Mr Afzal are unequivocal and that the evidence before it aligned with the admissions. The panel therefore found allegations 1, 2, 3, 4 and 5 proved by way of Mr Afzal's admissions.

*1. Between 18 March 2019 and 21 July 2019, you failed to conduct a file check of Foster Carer A's file held by the previous foster care agency. **Found Proved***

2. On or around 12 July 2019, you submitted false and/ or misleading information on a Form F assessment completed for Foster Carer A, in that you:

*a. Stated that you had conducted a file read, when you had not; **Found Proved***

*b. Stated that the reference provided by the previous foster care agency did not corroborate what was recorded on file and/ or was contradicted by the files, when in fact the file was consistent with the reference provided; **Found Proved***

*c. Indicated that the previous foster care agency files gave a positive impression of Foster Carer A, when in fact this was not true; **Found Proved***

*d. Stated that Colleague A had 'no concerns' with Foster Carer A's care of the children and they 'did not recognise any of the concerns relayed' by the previous agency, when these comments were inaccurate and untrue; **Found Proved***

*e. Stated that there were no upheld concerns from reading the files, when you had not read the files. **Found Proved***

3. On 20 July 2019, you provided false and/ or misleading information during a panel meeting in respect of Foster Carer A, in that you:

*a. Failed to state that you had not conducted a file check of Foster Carer A's file held by the previous foster care agency and/ or implied that you had done so; **Found Proved***

*b. Stated that the Local Authority Social Worker, Colleague A, did not share the previous foster agency's concerns or have any issues in respect of Foster Carer A's conduct, or used words to that effect; **Found Proved***

*c. Implied that the previous foster care agency's reference was inaccurate and/ or should not be relied upon. **Found Proved***

*4. Your conduct at paragraphs 2 and/ or 3 was dishonest. **Found Proved***

*5. Between 19 December 2019 and 21 January 2020, you failed to inform Social Work England that Ideal Fostering had stopped engaging you as an Independent Form F Assessor and had withdrawn assessments from you. **Found Proved***

Submission on grounds and impairment.

55. The panel heard submissions on both 'grounds and impairment' from Mr Harris and Ms Ramage.

Social Work England

56. Mr Harris submitted that separately and collectively the facts proved amount to misconduct. He asked the panel to keep in mind the objectives of Social Work England and the purposes of proper regulation. He referred to several legal cases as to the description of misconduct.

57. Mr Harris submitted that the conduct in respect of allegations 1-4 puts Mr Afzal in breach of The Health and Care Professions Council ("HCP") 'Standards of conduct, performance and ethics' which was the ethical framework in place at the time of the facts. In particular standards:

'2.6 You must share relevant information, where appropriate, with colleagues involved in the care, treatment or other services provided to a service user.

6.1 You must take all reasonable steps to reduce the risk of harm to service users, carers and colleagues as far as possible.

6.2 You must not do anything, or allow someone else to do anything, which could put the health or safety of a service user, carer or colleague at unacceptable risk.

7.4 You must make sure that the safety and well-being of service users always comes before any professional or other loyalties.

9.1 You must make sure that your conduct justifies the public's trust and confidence in you and your profession.

9.4 You must declare issues that might create conflicts of interest and make sure that they do not influence your judgement.

10 You must keep accurate records.

13 You must behave with honesty and integrity and make sure that your behaviour does not damage the public's confidence in you or your profession.'

58. Mr Harris submitted that the conduct in respect of allegation 5 puts Mr Afzal in breach of Social Work England Professional Standards (2019) 6.6 *which is to 'Declare to the appropriate authority and Social Work England anything that might affect my ability to do my job competently or may affect my fitness to practise.'*
59. Mr Harris submitted that Mr Afzal's actions arose out of a dishonest failure to carry out essential duties to which he was assigned. The failings are of basic and fundamental tenets of the profession. He said that Mr Afzal's actions are the opposite of what was a fundamental expectation from a social worker to safeguard vulnerable children.
60. Mr Harris submitted that Mr Afzal's actions created a serious risk of harm to service users and there is evidence of actual harm being caused to vulnerable children. Mr Afzal is an experienced practitioner and he had significant experience in carrying out Form F assessments, so he understood the reasons for the appropriate checks to be carried out and how to do so. He was specifically on notice of the material he would find within the files and the obvious risk of harm presented by approving Foster Carer A.
61. Mr Harris said that Mr Afzal's own submission was that he had prioritised his own professional reputation and financial gain. However, Social Work England submit that if Mr Afzal had concluded the assessment of Foster Carer A to be negative, there would have been no reputational or financial risk for Mr Afzal.
62. Mr Harris stated that Mr Afzal did not refer himself to Social Work England even after it was clear that steps had been taken to prevent him carrying out further assessments. The agency referred Mr Afzal to Social Work England on 20 January 2020, however Mr Afzal had from the 20 December 2019 to have made his self-referral once the issues had come to light.
63. Mr Harris referred to the case of *Tait v Royal College of Veterinary Surgeons* [2003] UKPC 34, and submitted that the courts have repeatedly recognised that, for all professional persons, a finding of dishonesty lies at the top end of the spectrum of gravity of misconduct. He submitted that the departures from the standards are serious, fundamental ones and the allegations properly amount to misconduct separately and collectively.

64. Mr Harris addressed the panel on impairment. He submitted that Mr Afzal's fitness to practise is impaired. He reminded the panel that it was a matter of its own judgement but that it should have regard to both the personal component and the public interest consideration.
65. Mr Harris referred the panel to the relevant case law dealing with the proper approach to assessing current impairment. He submitted that all four limbs of the '*NMC v Grant*' test applied in this case. He asked the panel to take into consideration the Social Work England '*Impairment and sanctions guidance*' dated 19 December 2022 and drew particular paragraphs to the panel's attention.
66. Mr Harris submitted that Mr Afzal's actions arose out of dishonest failure to carry out essential duties as part of the assessment to which he was assigned; these are failings of basic and fundamental tenets of the profession. Mr Afzal decided not to do the file review, then sought to cover this up over a long period. The misconduct cannot be described as an isolated incident or a momentary lapse, given that it was maintained throughout the assessment process and involved repeated lies in both writing and made orally, including the invention of a fictional version of events to cover his lies through the assessment.
67. Mr Harris submitted that the dishonesty was therefore a very serious example of its type and high within the scale of dishonesty. He submitted that it was determined, sustained, elaborate, and was committed directly within his social work practice. There is a significant degree of trust placed in social workers, especially when working autonomously where their judgement and honesty are taken at face value.
68. Mr Harris said that the panel will have to carefully scrutinise Mr Afzal's assertions as to insight. He submitted that although Mr Afzal has previously made admissions, his first meaningful acceptance of dishonesty came in May 2023. He submitted that Mr Afzal's insight may still be primarily focused upon himself. Mr Afzal's written responses say that his motivation was greed and career advancement. Mr Harris submitted that this does not explain why he did what he did.
69. Mr Harris drew to the panel's attention Mr Afzal's response in relation to him having a conflict of interest. Mr Harris submitted that this does not provide an explanation of his conduct; that working for both agencies would not prevent him preparing an honest assessment and there should have been no conflict or disagreement between the agencies. Mr Afzal created the conflict by having the second agency wrongly ignore the warnings from the first.
70. Mr Harris referred to Mr Afzal's written responses in which he states that he '*cannot fathom why I lied*', and more recently he states he acted as he did for '*incomprehensible reasons*'. Mr Harris submitted that this undermines any assertion to have full insight as to causes and how to avoid repetition. If after this long period and all this reflection Mr Afzal still cannot explain why he did it, there is little prospect of a conclusion that it is highly unlikely to be repeated.

71. Mr Harris refuted Mr Afzal's written response in which he claims the situation unravelled when he admitted it. Mr Harris submitted that this was not the case, as in fact it was discovered quite apart from him admitting it, when he was challenged with what was overwhelming evidence of his actions. Mr Harris submitted that little credit can be afforded for Mr Afzal's admissions.
72. Mr Harris submitted that it should be so obvious to Mr Afzal from the information known at the time that quite beyond the general expectation of conducting the assessment properly and within national minimum standards that in the instance of Foster Carer A he would be placing vulnerable children at risk if she was approved. It should have been abundantly clear and for him only to recognise that afterwards renders his recognition not a particularly decisive step.
73. Mr Harris submitted that there is no objective evidence of insight or remediation. He said that Mr Afzal shows some reflection on the impact into effects upon both agencies, the Foster Carer, the children, and his colleagues and the public.
74. In relation to the dishonesty, Mr Harris submitted that in describing this as a '*one act of dishonesty*', Mr Afzal is minimising and failing to appreciate the scale of his dishonest actions. The Form F assessments take a long time to complete, Mr Afzal had a long time to write the truth, or to admit his wrongdoing to the Agency and correct it, and/or to tell the Fostering panel the truth but chose for weeks not to do so and to cover up his actions.
75. Mr Harris asked the panel to carefully scrutinise Mr Afzal's claims to have remediated. Despite the multiple testimonials, these only go so far to indicate positive practice, but he has not undertaken similar work again and the extent of the conduct is such that it would be very difficult, if not impossible to remediate.
76. Mr Harris submitted that there are public protection considerations in light of Mr Afzal's misconduct and there is a clear risk of repetition. In addition, there are public interest considerations in ensuring social workers maintain public confidence in the profession and uphold high standards of conduct. Mr Afzal's actions could represent a threat to public confidence in the integrity of social workers, and the public's positive view of the profession.
77. Mr Harris submitted that Mr Afzal's conduct was so serious, entrenched and damaging that a finding of impairment must be required to protect the reputation of the profession.
78. Mr Harris asked the panel to find impairment on both the personal grounds and public interest grounds, and on the facts found proved, to conclude that Mr Afzal's fitness to practise is currently impaired.

Mr Afzal

79. Ms Ramage said that she would be making submissions on behalf of Mr Afzal. At this stage the panel adjourned the hearing to allow time for the parties and the legal adviser to have discussions in the parties' room. Ms Ramage had some time to take Mr Afzal's instructions and it was clarified that Mr Afzal did not wish to give evidence but proposed that Ms Ramage make agreed submissions on his behalf. The hearing restarted.

80. Ms Ramage referred the panel to the written submissions in the bundle and supplemented these with oral submissions. She also asked the panel to have regard to the evidence of training and the testimonials included in the bundle.
81. Mr Afzal's most recent written submissions are fourteen pages long. By way of summary, they set out the following:
- Mr Afzal has been able to continue practising without restrictions since the investigation commenced.
 - Mr Afzal fully admits the actions as set out in the statement of case.
 - Mr Afzal feels shame and regret for what he did.
 - He has reflected on his actions and developed over the last three years. He is now a Team Manager for Children's Services at Birmingham City Council.
 - He was under financial and family pressure in 2019 which is why he took on extra work on top of his full-time employment.
 - He cannot make sense of what he did. He did not view the files and thus his actions placed children at risk of significant harm.
 - It has been four years since these events, he is remorseful and sorry to all those involved in what he did. Since the events of 2019, he has reflected on how he can rebuild trust in his practice and why he did what he did.
 - He should have withdrawn from the assessment, but he felt conflicted because he did not want to jeopardise his relationship with New Life as he worked well with them.
 - He completed checks on other files appropriately and this situation was a one-off incident of dishonesty.
 - He is not a dishonest character. He has worked openly and honestly with Social Work England and his employer.
 - He no longer undertakes Form F assessments and has no intention of doing so.
 - He has been on a number of training courses over the last three years with the focus on leadership. He has received positive feedback from his team and his line manager.
 - He has undertaken assessments and holds others to account in his role as Team Manager.
 - He has attended court on cases where he has been honest to the Judge in stating why certain tasks have not been completed by his team, for example due to capacity issues.

- He has regular emotional wellbeing sessions with a qualified social work coach where he talks about the impact of his actions in 2019.
 - He has read and listened to research about dishonesty in the workplace and will not repeat his dishonesty.
 - He has worked for Birmingham since 2010 with no concerns about his practice. He has provided multiple testimonials for the panel to consider.
 - He accepts his actions fell below those expected of a social worker.
 - The job is his life, and he would like to be given the chance to continue to practise as a social worker.
82. Ms Ramage submitted that from the outset Mr Afzal has demonstrated openness about his actions. There is no disciplinary history or history of other complaints regarding his practice. It was a '*one off*' event that occurred and he has accepted full responsibility for his behaviour.
83. Ms Ramage submitted that Mr Afzal has not sought to minimise or blame others, he has not relied upon mitigation but has explained his own personal pressures upon him at that time. He has engaged fully with the investigation from the outset, as he has with two interim order applications, in February 2020 and December 2021, both of which decided not to impose a suspension or conditions of practice order, therefore allowing him to practise unrestricted.
84. Ms Ramage referred to the pressure Mr Afzal was under at the time of these events and the lack of support and resources he was experiencing in his full-time post at that time.
85. In relation to the dishonesty, Ms Ramage said that Mr Afzal had committed himself to a lie, which had escalated until it was discovered. However, it was an isolated incident and not a recurrent feature in his practice.
86. Ms Ramage told the panel that Mr Afzal had undertaken deep and long reflection on his actions. His failure to inform Social Work England was not a deliberate act to avoid investigation but his belief was that the agency was doing the referral. He would self-refer should the need arise again.
87. Ms Ramage submitted that the investigation has positively influenced Mr Afzal's practice and he has successfully developed in his career and is a Team Manager. Since the events, he has been proactive in seeking advice and support and participates willingly in examining his failings.
88. Ms Ramage said that Mr Afzal has taken all possible action to remediate, he has engaged in personal support, provided open and honest responses to the regulator, but has also continued to work within social work. He has achieved promotion, taken the learning from this investigation into his practice and considers himself to be vigilant in how he performs his roles and responsibilities.

89. Ms Ramage said that the supporting testimonials show he is trusted by his colleagues and his manager. In the last three years he has completed multiple assessments including court work and no concerns have been raised. There is no evidence to suggest that these events will be repeated. Mr Afzal has worked hard to uphold the social work principles of honesty and integrity in everything he does. His employers are aware of the investigation by Social Work England, and he has never hidden this from them.
90. Ms Ramage referred to the Pathways 360 feedback contained in the bundle. Mr Afzal hopes that this will evidence aspects of his character and integrity and that he is an honest, nurturing, and supportive manager as alluded to in the references.
91. Ms Ramage told the panel that Mr Afzal acknowledged that what he did was significant and serious, and he has never sought to minimise this. The remediation work began in the last few years and continues, and he will do whatever it takes to prove to Social Work England that he is a person of integrity and someone who is taking the steps to rectify his character and rebuild his values.
92. Ms Ramage said that Mr Afzal is aware of the requirements for the public to have trust and confidence in social workers, and submitted that Mr Afzal has shown that he can perform his duties to adequate standards to provide the public with confidence that he has taken on board the seriousness of his dishonesty and its impact on service users, agencies he was working with and indeed the confidence he and others might have in his practice.

Re-convened hearing on 16 May 2023

93. After initial deliberations but prior to the panel handing down its decision the panel re-convened the hearing. Ms Ramage had discovered an inaccuracy in her oral submissions made to the panel on 15 May 2023. As per paragraph 83 of this decision Ms Ramage had submitted that Mr Afzal had been subject to two interim order applications but that neither had imposed an interim order. Ms Ramage said that upon checking the correspondence sent by Social Work England to Mr Afzal it was apparent that interim orders were considered by Social Work England on two occasions but on neither occasion was an interim order applied for. The panel were provided with copies of the letters confirming that information. Ms Ramage apologised and wanted to ensure that she had not mislead the panel.
94. Mr Harris said that he had no comments to make as Ms Ramage was simply providing clarity to the panel.
95. The legal adviser reminded the panel that interim orders are considered based upon a risk assessment whilst an investigation remains ongoing. The panel's role at a final hearing is different. They must decide whether the facts are capable of being proved, whether the statutory grounds are capable of being met and whether the social worker's fitness to practise is impaired. The submissions about the lack of interim order are factors which should be taken into account alongside all the evidence and submissions in this case.

Finding and reasons on grounds:

96. The panel heard and accepted legal advice from the legal adviser on the issue of misconduct. The panel at all times had in mind the overriding objective of Social Work England which includes its duty to protect the public, promote and maintain public confidence in social workers in England and to promote and maintain proper professional standards for social workers in England. The panel had regard to the '*Social Work England Impairment and Sanctions guidance*' updated 19 December 2022.
97. The panel considered the HCPC Standards of conduct, performance and ethics which were the threshold standards in place at the time of facts 1, 2, 3 and 4. The standards set out how a social worker in England must behave and what the public should expect from their profession. The panel also considered the Social Work England Professional standards as they are the standards which were in place at the time Mr Afzal failed to inform his regulator of the circumstances of facts 1-4. The panel bore in mind that a departure from the standards alone does not necessarily constitute misconduct.
98. The panel considered that the behaviours of Mr Afzal in relation to facts: 1,2,3,4 and 5 do amount to serious professional misconduct.
99. The panel concluded that Mr Afzal's conduct and behaviour fell far below the standards expected of a registered social worker. His actions amount to failings of basic and fundamental tenets of the social work profession. The panel determined that Mr Afzal's conduct was in breach of multiple HCPC and Social Work England Professional Standards, in particular standards:
 - HCPC - '*6.2 You must not do anything, or allow someone else to do anything, which could put the health or safety of a service user, carer or colleague at unacceptable risk.*'
 - HCPC – '*7.4 You must make sure that the safety and well-being of service users always comes before any professional or other loyalties.*'
 - HCPC – '*9.1 You must make sure that your conduct justifies the public's trust and confidence in you and your profession.*'
 - HCPC – '*13 You must behave with honesty and integrity and make sure that your behaviour does not damage the public's confidence in you or your profession.*'
 - Social Work England – '*6.6 Declare to the appropriate authority and Social Work England anything that might affect my ability to do my job competently or may affect my fitness to practise, or if I am subject to criminal proceedings or a regulatory finding is made against me, anywhere in the world.*'
100. Based on the findings, the misconduct falls into three interlinked areas relating to one case:
 - i) failure to conduct a file check; ii) dishonesty by providing false and misleading information in a written assessment and orally during a panel meeting; and iii) failing to inform the regulator about the events.

101. In relation to the failure to conduct a file check the panel took into account that this was a task that Mr Afzal was aware must be undertaken in line with the regulations and standards relating to fostering. Mr Afzal was an experienced social worker who had completed several Form F assessments. The panel relied on witness EE when considering the relevance of this failure. The Form F assessment is a '*rigorous one*', and on average the social worker will meet with an applicant carer 8-10 times during the assessment. EE states that '*It is important to really unpick who the applicant carer is as an individual, and understand that they are properly motivated to foster and that they will be a good and safe foster carer.*'
102. By his own admission, Mr Afzal knew this failure to review the files was wrong, and it was deliberate behaviour. The failure to conduct the file check was exacerbated by the fact that Mr Afzal was on notice (due to JT's reference) of the negative information about Foster Care A that he was likely to find within the files, and the risks that could arise as a result of approving this carer.
103. In relation to the dishonesty the panel considered this to be a serious departure from the standards expected. The panel took into account that the dishonesty was not a one-off incident or lapse of judgement, and whilst it did relate to one case, there was multiple opportunities arising during the duration of the assessment and when presenting the case to the panel, for Mr Afzal to be honest about what he had done, but he was not. The dishonesty was exacerbated as it involved actively creating an untrue narrative, found in various places within the assessment, about what Mr Afzal purported to have read in the files. His dishonesty in the fabrication of events was also aggravated by reference to MB, a registered social worker, with Mr Afzal providing an untrue account of the information she had shared with him. When challenged about the file read by EE in the presence of the Ofsted inspector, Mr Afzal continued to commit to his lie by stating that he would provide his notes later in the day. It was only during the follow up call from EE, when Mr Afzal was told there was no record of him viewing the files, that he admitted what he had done.
104. Mr Afzal admitted the dishonesty and provided some written mitigation, but the panel concluded that he had not provided any reasonable or logical justification for deliberately breaching the standards.
105. The impact of Mr Afzal's dishonesty was serious as it resulted in Foster Carer A being approved as a foster carer. Not only did Mr Afzal create a risk of harm to service users but actual emotional harm occurred as two siblings were placed in Foster Carer A's care following her approval. During an early evening statutory visit to those children at Foster Carer A's home, they were reported by their social worker to be '*scared*', and a decision was made to remove them that evening as Foster Carer A '*was acting erratically, playing music loudly and not listening.*'
106. In relation to the failure of Mr Afzal to inform Social Work England, the panel recognised that this was only one incident but none the less found this to be a clear breach of professional standards such that it amounted to misconduct. The obligation was on Mr Afzal to report himself, and it mattered not whether he thought the Agency would be doing this. Indeed, he had a period of four weeks prior to the Agency contacting Social Work England in

which he could have self-referred. Part of the professional duty of social workers is to understand and abide by the standards. As a social worker of nine years (at that time) Mr Afzal should have been aware of the standards and the requirement to notify his regulator of such matters. The standards are there to keep the public safe and to maintain confidence in the profession. A failure to inform Social Work England prevented the regulatory body from undertaking its overarching objective and deprived it of an opportunity to protect the public and assess the risk.

107. The panel considered that the facts found proved would be seen as far below what is expected by fellow practitioners and concluded that individually and cumulatively, they amount to misconduct.

Finding and reasons on current impairment:

108. The panel heard and accepted the advice of the legal adviser in relation to impairment. The panel took into account that it should have regard to both the personal and public components and keep in mind the wider public interest. The panel also took into account the cases of *CHRE v (1) NMC & (2) Grant [2011] EWHC 927 (Admin)*, *Cohen v GMC [2008] EWHC 581 [Admin]*, *Cheatle v GMC (2009) EWHC 645 (Admin)*, *Bolton v Law Society 1993* and *The General Medical Council v Armstrong [2021] EWHC 1658 (Admin)*. The panel also took into account the 'Social Work England Impairment and Sanctions guidance' updated 19 December 2022, which includes information on assessing impairment.
109. The panel considered Mr Afzal's current fitness to practise firstly from the personal perspective and then from the wider public perspective. The panel also had regard to whether the conduct in this case is easily remediable, whether it has been remedied and whether it was highly unlikely to be repeated.
110. In deciding impairment, the panel had regard to the factors identified by Dame Janet Smith in her 5th Shipman Report and cited in *CHRE v (1) NMC and (2) Grant*. The panel considered whether:
- a- The social worker has in the past and/or is liable in the future to place service users at unwarranted risk of harm.
 - b- The social worker has in the past brought and/or is liable in the future to bring the profession into disrepute.
 - c- The social worker has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the profession.
 - d- The social worker has in the past acted dishonestly and/or is liable to act dishonestly in the future.
111. In relation to the first component the panel determined that Mr Afzal has in the past placed service users at unwarranted risk of harm. The panel considered that the findings on misconduct at paragraph 105 show that Mr Afzal has acted in a way that both could and did put services users at risk of harm. The children that were placed with Foster Carer A

suffered upheaval which could have been avoided if Mr Afzal had conducted the file check and been honest in his completion of the assessment.

112. In relation to the question of whether Mr Afzal has in the past brought the profession into disrepute, the panel determined he had. A significant aspect of public interest is upholding proper standards of behaviour so as not to bring the profession into disrepute. The dishonest narrative that Mr Afzal created and committed to throughout the assessment process and until he was challenged about it by EE did bring the profession into disrepute. The panel took into account that both EE and JT, fellow social workers, report being '*shocked*' by the events.
113. In finding that Mr Afzal did not conduct himself in such a way as to adhere to the HCPC and the Social Work England professional standards, the panel determined that he had breached fundamental tenets of the social work profession. The panel considered that honesty and integrity are fundamental tenets of social work.
114. In relation to the fourth component, the panel determined that Mr Afzal had in the past acted dishonestly and had done so numerous times in the written assessment by providing a false narrative about the file read and about what MB had told him. He had also been dishonest to the Fostering panel by continuing with the false narrative.
115. The panel considered the extent to which the misconduct in this case can be and has been remediated by Mr Afzal and whether it is likely to be repeated.
116. The panel kept in mind that concerns that raise questions of character such as dishonesty may be harder to remediate. This is because it is more difficult to produce objective evidence of reformed character. Mr Afzal's dishonesty included falsifying an assessment and caused direct harm to vulnerable children who were placed with Foster Carer A because of Mr Afzal's inaccurate assessment of her. The panel therefore considered that this amounts to serious dishonesty and occurred as part of Mr Afzal's professional practice.
117. The panel took into account the written reflections provided by Mr Afzal which were supplemented by the oral submissions made on his behalf by Ms Ramage. In relation to the misconduct the panel noted that Mr Afzal was under personal and work pressures at the time of the events, and that he has reflected on his actions, recognising the seriousness of his misconduct and the impact it had. The panel kept in mind that Mr Afzal has been in social work practice for thirteen years and these events have been a one-off in an otherwise unblemished career. However, Mr Afzal's reflections maintain that he is unable to '*fathom why*' he lied. He states that for '*incomprehensible reasons which to this day I cannot make sense of*' he did not view the files and was then dishonest. The panel concluded that without having insight into the cause of his behaviour, he could not be said to have fully remediated.
118. The panel took account of the multiple positive testimonials provided by Mr Afzal and contained in the bundles. Some of the testimonials acknowledge an awareness of the Social Work Investigation and nonetheless describe Mr Afzal as '*trustworthy*'. Whilst the panel recognised the experience of the authors of the character references is that Mr Afzal is honest, the authors have not had the benefit of the full weight of the evidence seen by the

panel, they have merely had a snapshot of the bigger picture. The evidence is that there was sustained dishonesty throughout the assessment period, during the Fostering panel, and this was maintained until the dishonesty was by chance discovered because of JT's notification to Ofsted.

119. The testimonials and written reflections of Mr Afzal provide evidence of him being an experienced practitioner who can manage risk and use his skills to support his team and service users. However, the facts of this case are not related to Mr Afzal's competence and the panel concluded that the evidence of professional competence cannot mitigate the serious dishonesty admitted by Mr Afzal.
120. The panel considered whether the misconduct was likely to be repeated by Mr Afzal. The panel took into account all it had read and heard about the misconduct. It kept in mind Mr Afzal's early admissions, his engagement with the Social Work England process and his written account that this behaviour would not be repeated. The panel were not assured that the risk of repetition was low. The dishonesty relates to a number of incidences and was sustained. Mr Afzal had several opportunities during the lengthy assessment period to set the record straight, but he failed to take them. He only admitted to the dishonesty when he had no alternative having been presented with the uncovering of facts by EE. Furthermore, as Mr Afzal is unable to say why he behaved in the way he did, despite the passage of time since the events, the panel could not be confident that he could prevent a reoccurrence.
121. The panel determined that Mr Afzal's fitness to practise is currently personally impaired on the grounds of his misconduct.
122. The panel next considered whether a finding of current impairment was necessary in the public interest. The panel was mindful that the public interest encompassed not only public protection but also the declaring and upholding of proper standards of conduct and behaviour as well as the maintenance of public confidence in the profession. It took into account the guidance in *Grant* at paragraph 74:- *'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.'*
123. The panel considered its findings in relation to misconduct including the findings of dishonesty. The panel took into account that social workers hold privileged positions of trust. It is essential to the effective delivery of social work that the public can trust social workers. Abuse of trust by a social worker is a serious and unacceptable risk in terms of confidence in the profession.
124. The panel considered that members of the public, even if they knew that Mr Afzal has remained in competent and positive practice, would be concerned if the Regulator were not to mark the seriousness of Mr Afzal's misconduct with a finding of current impairment on public interest grounds. The panel considered that not to make a finding of current

impairment of fitness to practise in relation to those matters would undermine public trust and confidence in the profession and would fail to uphold and declare proper standards.

125. The panel therefore decided on the public interest element of impairment that Mr Afzal's fitness to practise is currently impaired.

Submissions on sanction

Social Work England (summary of submissions)

126. Mr Harris submitted that the appropriate sanction is a removal order. He made reference to the case of *Law Society v Bolton* [1994] 1 WLR 512, and the judgement of Sir Thomas Bingham MR.
127. Mr Harris submitted that the central purposes in considering whether to impose a sanction are the protection of the public including the wider public interest of maintaining public confidence in the profession and upholding proper standards of conduct. He submitted that part of this is by preventing repetition. He told the panel that mitigation is a factor that will generally be of less significance given that the purpose of sanction is not punitive.
128. Mr Harris submitted that there is a need to maintain a well-founded confidence that social workers are persons of unquestionable honesty, integrity, probity, and trustworthiness among members of the public. Mr Harris drew the panel's attention to its findings in respect of Mr Afzal at paragraph 116-120 of the decision and submitted that he adopted and relied upon those in establishing the points he makes.
129. Mr Harris referred to the '*Social Work England Impairment and Sanctions guidance*' ('Sanctions guidance') paragraph 43 in relation to difficulty in evidencing remediation where concerns relate to character. He submitted that in all of the circumstances, a removal order is necessary for the protection of the public, including maintaining public confidence in the profession and upholding proper standards of conduct.
130. Mr Harris submitted that there is inevitably a high degree of trust placed in social workers. In the context of this case, Mr Afzal has sought to mislead by his invention and maintaining a detailed false narrative. A social worker would in fact be expected to discharge the responsibility of assessing individuals to safeguard children with scrupulous honesty and integrity.
131. Mr Harris referred to paragraph 173 of the Sanctions guidance noting that dishonesty is likely to threaten public confidence in the social work profession. Mr Harris submitted that although the facts found arise from a single case, it included multiple events and is a serious example of its type. He submitted that it is a course of conduct rather than an isolated event, involving repeated, detailed and entrenched deceit to cover a failure to carry out a fundamental and necessary part of his job.
132. Mr Harris referred the panel to its decision on misconduct and impairment reminding it that the decision finds that this case involves serious dishonesty that caused emotional harm to children and that there remains a risk of repetition.

133. Mr Harris submitted that given the seriousness of the conduct, lesser orders of no action, advice or warning would be wholly inappropriate in light of the panel's findings as to repetition and harm, as they do not restrict practice and cannot be reviewed.
134. Mr Harris referenced the Sanctions guidance and submitted that Conditions of Practice are unlikely to be appropriate in such a case as this, where such attitudinal failings are at its heart.
135. Mr Harris drew the panel's attention to the relevant sections of the Sanctions guidance which reference suspension orders, removal orders and dishonesty. He submitted that suspension is likely to be unsuitable as whilst Mr Afzal might be willing to attempt to resolve his failings, despite the passage of time since the events he still has no real insight into this. It is still unclear why he did what he did. Mr Harris submitted that based on the Sanctions guidance and in all of the circumstances of this case a removal order is necessary for the protection of the public, including maintaining public confidence in the profession and upholding proper standards of conduct.
136. Mr Harris said that aggravating features may be found in the duration of the dishonesty, amounting to a pattern of behaviour within this case over the months it was committed. It included both written and oral dishonesty, the actual harm caused, and Mr Afzal failed to report it to Social Work England. He drew the panel's attention to it having already found an aggravating feature in the involvement by Mr Afzal in his false narrative of the allocated social worker, MB. He submitted that as to the period involved, it stopped not because Mr Afzal chose to desist, but because the dishonesty was discovered. Mr Afzal did not admit it before discovery.
137. Mr Harris submitted that in relation to mitigating features referred to in the Sanctions guidance, on the question of dishonesty the only potentially relevant ones are Mr Afzal's absence of previous fitness to practice history. He has asserted medical issues but there is no medical evidence before the panel. His positive professional practice has been identified but this is not directly referable to remediating the deficiencies identified and the panel has already found that evidence of professional competence cannot mitigate the serious dishonesty admitted here.
138. Mr Harris submitted that in the circumstances, suspension would not be appropriate when applying the Sanctions guidance and would not sufficiently prevent repetition or mark the public interest. In addition, a clear message must be sent with regard to the expectations of honesty, integrity and trust expected of all social workers. He submitted that the misconduct is likely to have a significant impact upon public trust and confidence in the profession and a sanction at the upper end of those available would therefore also be justified on public interest grounds.
139. Mr Harris referred to passages from the following cases:
- *Law Society v Bolton* [1994] 1 WLR 512
 - *Professional Standards Authority v The Health and Care Professional Council & Mohammed Ghaffar* [2014] EWHC 2723 (Admin)

- *Khan v GMC [2015] EWHC 301 (Admin)*
- *Abbas v GMC [2017] EWHC 51 (Admin)*

140. Mr Harris submitted that if the panel do not accept Social Work England's submission that the appropriate sanction is one of removal, then it should impose a suspension order which should be sufficiently long to mark the seriousness of the issue. He submitted that sufficient time would be required to remediate something which is difficult to remediate and has already proved elusive over a long period.
141. Mr Harris sought for the panel to make an interim order to cover the appeal period if it makes a restrictive or removal order. He submitted that an interim order is necessary to protect the public in light of the findings of misconduct and impairment made by the panel.

Mr Afzal (summary of submissions)

142. Ms Ramage asked the panel to keep in mind and consider the following:
- Mr Afzal has no previous history of concerns with the regulator prior to 2019 or since.
 - He has no previous history of disciplinary actions by any employer.
 - He gave full admissions and acceptance of the facts.
 - His submissions to Social Work England throughout the investigation have been consistent recognising the seriousness of his actions.
 - He has sustained employment during the investigation.
 - He has achieved promotion into a team manager post during this time of high anxiety and scrutiny.
 - The supplementary bundle pages 116-141 contain positive feedback from his supervisees and colleagues about his character, decision making and management.
 - Mr Afzal has worked throughout the last three years without condition or sanctions and has worked unrestricted throughout the investigation.
143. Ms Ramage asked the panel to consider the excellent statement provided by Mr Afzal's head of service. She submitted that this is an important testimony that demonstrates that his employer has trust and confidence in Mr Afzal even during the period he has been under investigation by the regulator. He has impressed colleagues and managers alike.
144. Ms Ramage expressed that Mr Afzal appreciates that his actions are indeed serious, and that public confidence must be maintained.

145. In relation to the situation he found himself in at the time of these events, Ms Ramage said that this mitigation is illustrated by a colleague in her testimonial provided in the bundle. At the time the misconduct took place Mr Afzal was having some difficulty at his substantive post due to lack of resources, lack of management oversight, teams being disbanded, and transitions not being managed effectively.
146. Ms Ramage drew the panel's attention to Mr Afzal's written submissions of personal health factors that had been present for him and his family. He was also under pressure to secure a property for him and his family to allow them to become their own family unit. This was his motivation for taking on additional work with the fostering agencies to complete fostering assessments.
147. Ms Ramage said that Mr Afzal accepts that his actions in not viewing the files required in this particular case, are a serious departure from the standards required. He accepts that, but he then perpetuated the dishonesty by his subsequent actions, and he has no defence other than he was caught in a lie and it was escalating. He cannot explain it beyond this, he would have had no financial gain from changing his assessment, it was as he describes '*unfathomable*', and he has remained honest about this. Ms Ramage said that Mr Afzal would like to explain it to the panel, but he simply cannot explain how he came to depart from his exemplary record, he also will not make an excuse that will explain it, he simply has no answer to this and wanted to be honest about that.
148. Ms Ramage said that Mr Afzal has acknowledged the risk of harm to the children involved and his lack of protection to them in relation to the approval of the unsuitable foster carer. He cannot undo this, but his wish is to be allowed to serve in social work and provide safe and responsible standards now and in the future. He believes he can maintain honesty and integrity as well as professional standards going forward.
149. Mr Afzal is undertaking [PRIVATE] to help him cope with his personal and professional failures, his professional and personal values having been compromised by his actions. The purpose is not totally about self but exploring his actions and learning to cope with the feelings he has about those actions. He has a deep sense of shame over his dishonesty.
150. Ms Ramage said that Mr Afzal knows he let the public down, he knows that confidence in him will have been eroded, however he should be given credit for his sustained effort into improving his standards and exploring [PRIVATE] his motivations and feelings in which he has shown learning.
151. Ms Ramage reiterated that Mr Afzal has sustained social work practice to a high standard and progressed to team manager level during the most difficult time in his career. She submitted that this should not be underestimated as being under investigation by your regulator brings with it huge disadvantages for all social workers, and where there is dishonesty involved it is incredibly hard to secure and maintain employment during this

time. She submitted that Mr Afzal has demonstrated that he is a trusted employee within Birmingham Children's Trust. His managers are aware of the details of the investigation and yet have continued to support him as well as confirming he has their trust and confidence. Ms Ramage submitted that this is only possible if Mr Afzal has behaved honestly, openly and demonstrated he can be trusted. A serial dishonest person is someone who displays and presents a pattern of dishonesty in all workplaces, and there is no evidence of Mr Afzal having this behaviour trait. This incident and this incident alone is where he has demonstrated such behaviour.

152. Ms Ramage referred to paragraph 104 of the panel's decision. She questioned what would be '*reasonable or logical*', if it was deliberate as described then there can be no reasonable explanation.
153. Ms Ramage submitted that Mr Afzal has shown remediation, he has support, strives to remediate and has been proactive from 2019 in seeking support and learning from this. He is a man who is shamed by his dishonesty and this impacts upon his ability to make sense of it. Mr Afzal has shown remediation through his determination to improve his professional reputation by hard work as well as seeking assistance through his [PRIVATE].
154. Ms Ramage said that in terms of risk of repetition, the dishonesty all related to one event as is conceded in paragraph 117 of the panel's decision. She submitted that Mr Afzal has not exhibited dishonest behaviour before or after these events, he has sustained employment as a trusted employee in a position of trust.
155. Ms Ramage said that in relation to the self-referral the guidance is unclear. Further, in this case the time period is a matter of a few weeks, during which time there was the chaos of Mr Afzal covering his substantive post towards the Christmas break, and the reopening of services after this. Mr Afzal had a genuine belief that he was not required to self-refer.
156. Ms Ramage said that Mr Afzal continues to feel remorse about the dishonesty and the impact it had on the children placed with Foster Carer A as a result of his own actions. However, this has also impacted on his current practice in that he has not worked in isolation in his current role, there are ongoing protective measures that inhibit any repeated dishonesty to take place, for example he has close and regular supervision with his head of service and there are also monthly performance meetings to look at all aspects of his practice and performance, that he can maintain honesty, integrity as well as professional standards going forward.
157. Ms Ramage addressed the panel on making a conditions of practice order which she submitted would provide a set of conditions that Mr Afzal would be able to use to further demonstrate his trustworthiness and build confidence in his practice. He has been able to practise unrestricted from the point of referral and during this time he has been diligent in his duties. He has worked with other agencies such as police, terrorism sections of the

police, courts, child protection professionals and medical professionals none of whom have raised any concerns about his integrity or honesty.

158. Ms Ramage asked the panel to recognise that Mr Afzal has completed training and embarked on a management course that requires him to reflect upon his actions and how he performs his duties. This is another means by which he is able to be evaluated within the work setting. This of course would be subject to any conditions within any such order. A conditions of practice order would allow Mr Afzal to maintain employment. It would make use of his skills, his experience and his commitment to social work in a sector that needs those skills. Ms Ramage said that the financial burden of losing his employment would be great and would have an impact upon his whole family.
159. In relation to the imposition of a suspension order, Ms Ramage submitted that this would remove a valuable team manager who has evidenced his ongoing remediation and provided valuable service to the public during a three-year investigation. Mr Afzal is a valued team manager which is confirmed by his head of service who holds trust and confidence in him. If he is removed from that role, he will be at risk of no employment which will severely impact upon him financially. Further he would not be able to demonstrate his ongoing remedial actions, or it most certainly would severely hinder his ability to do so.
160. Ms Ramage said that removal from the register would not be appropriate in the circumstances of this case. Mr Afzal has made admissions to the facts and has made personal proactive approaches to deal with his dishonesty showing that he is doing all he can to repair his reputation. Removal from the register would place him in severe financial hardship, as well as prevent him from being able to demonstrate any progress in his learning or remediation.

Decision and reasons on sanction:

161. The panel heard and accepted the legal advice from the legal adviser on all the available options on sanction as set out in the Regulations. The panel was advised to consider the Sanctions guidance dated 19 December 2022. The panel was advised that the purpose of any fitness to practise sanction is to protect the public which includes maintaining confidence in the profession and upholding professional standards. The sanction imposed should be the minimum necessary to protect the public. The panel also heard and accepted the advice of the legal adviser in relation to the test for interim orders at final hearing stage. To impose an interim order in the present circumstances it needed to be satisfied that such an order was necessary for the protection of the public which includes the public interest.
162. The panel applied the principle of proportionality by weighing Mr Afzal's interests with the public interest and by considering each available sanction in ascending order of severity. The panel considered the mitigating and aggravating factors in determining what sanction, if any, to impose.

163. The panel identified the following mitigating factors:

- (a) Mr Afzal has shown some limited insight into the impacts his actions had on others.
- (b) Mr Afzal has expressed remorse.
- (c) Mr Afzal has no previous adverse regulatory findings against him nor any disciplinary actions against him.
- (d) Mr Afzal made admission of facts at the point of professional investigation.
- (e) Mr Afzal has fully co-operated with Social Work England following his referral.
- (f) Mr Afzal has taken steps to address his emotional well-being resulting from the situation he created.
- (g) Mr Afzal is positively accepted by his team manager and colleagues having been open with them about the investigation.

164. The panel identified the following aggravating factors:

- (a) Mr Afzal's dishonesty continued throughout the assessment of Foster Carer A and presentation to the fostering panel and was not admitted until it was uncovered as a result of JT's referral to Ofsted.
- (b) Mr Afzal says he is unable to offer an explanation for his actions.
- (c) Mr Afzal's fictional narrative involved another social worker MB.
- (d) Mr Afzal's conduct impacted directly on the children who were placed with Foster Carer A. It also impacted on the fostering agency who received the unexpected involvement of Ofsted, which could affect the agency's reputation.

165. Considering the serious findings of fact, the panel decided that taking no further action, issuing advice or a warning, would not be appropriate in this case as these sanctions would not restrict Mr Afzal's practice and would therefore not protect the public from the risks that have been identified.

166. The panel went on to consider whether a conditions of practice order would be appropriate. It is difficult to see how a conditions of practice order might address and safeguard members of the public from the risks of the dishonesty aspect of Mr Afzal's misconduct. The panel reminded itself that it had found Mr Afzal had not fully remediated and there was risk of repetition. Mr Afzal has not been able to explain his actions, the dishonesty relates to a number of incidences and was sustained. Mr Afzal had several opportunities during the lengthy assessment period to set the record straight, but he failed to take them. He only admitted to the dishonesty when he had no alternative having been presented with the

uncovering of facts by EE. With this in mind the panel considered that conditions of practice would not be guaranteed to prevent the risk of repetition. The facts found in Mr Afzal's case relate to his character and attitude which make conditions of practice hard to formulate. Social workers need autonomy to undertake their day-to-day role. To protect the public from Mr Afzal not complying with the correct processes and preventing him from fabricating information would require a constant quality assurance of his work. The extent of restriction required to achieve sufficient protection of the public would not be workable and would be tantamount to a suspension. The panel therefore concluded that a conditions of practice order is not sufficient to protect the public.

167. The panel then considered whether a suspension order should be imposed to protect the public and the wider public interest. The panel took into account that a suspension order can be imposed for a period of up to three years. The panel had in mind that the purpose of a suspension order is not to punish but to protect the public and the public interest.
168. The panel asked itself what a period of suspension would seek to achieve in Mr Afzal's case. A period of suspension would provide an opportunity for Mr Afzal to seek to address the misconduct findings made against him which he states he is willing to do.
169. In relation to dishonesty, the panel noted that it can be capable of being remedied. However, such remediation requires an acknowledgment of fault, meaningful reflection, and a commitment to ensuring that the dishonesty and underlying conduct will not be repeated. Whilst Mr Afzal acknowledges and accepts fault, there was no evidence before the panel of what steps Mr Afzal would take to ensure his conduct would not be repeated, simply his word that it would not. He has already had over three years to understand and develop insight into his misconduct and he is still unable to explain why he acted as he did. Therefore, his chance of remediating his failings is remote.
170. The panel took into account that social workers hold positions of trust, and the role often requires them to engage with vulnerable people. Dishonesty is therefore likely to threaten public confidence in social workers. The public (which includes employers and colleagues) must be able to trust the accuracy of information provided by social workers and trust that information they share will be accurately reflected. Other organisations, such as fostering panels, also rely on the honesty and integrity of social workers when making important decisions about service users.
171. The panel took into account that whilst the dishonesty only occurred in relation to Foster Carer A's case it did occur within the course of Mr Afzal's professional practice and was sustained (for over five months) until it was uncovered by JT and EE. The dishonesty was not a trivial lie, it was the active creation of a false narrative, and it resulted in direct harm to service users, namely the siblings who were placed with Foster Carer A upon her approval. The dishonesty involved falsifying the Form F report so that it included inaccurate and misleading information including inaccurately recording information from MB. The

dishonesty continued when Mr Afzal attended at the fostering panel. He provided inaccurate and misleading information to the fostering panel, a panel who by its nature is designed to robustly assess the approval of those entrusted to care for vulnerable children. The dishonesty was persistent and concealed representing a purposeful hiding of the truth despite opportunities for Mr Afzal to own up to what had happened.

172. For the reasons set out at paragraph 169-171 the panel determined that a suspension order was not sufficient to protect the public, public confidence in the profession, nor to mark the public interest in declaring and upholding proper standards of conduct and behaviour.

173. The panel, having decided a suspension order does not protect the public nor meet the wider public interest, decided that the proportionate order was a removal order.

174. The panel took into account the Sanctions guidance which states that:

'A removal order must be made where the decision makers conclude that no other outcome would be enough to (do one of more of the following):

- *protect the public*
- *maintain confidence in the profession*
- *maintain proper professional standards for social workers in England.'*

175. The panel considered that a removal order is a sanction of last resort and should be reserved for those categories of cases where there is no other means of protecting the public and the wider public interest. The panel decided that Mr Afzal's case falls into this category because of the nature and gravity of his dishonest conduct, and the ongoing risk of repetition. The panel was also satisfied that any lesser sanction would undermine public trust and confidence in the profession.

176. In reaching its decision on sanction the panel did take into account Mr Afzal's evidence of positive testimonials and training he has undertaken whilst he has remained in practice during Social Work England's investigation. As previously stated within this decision the panel accepts this evidence shows him to be an experienced practitioner who can manage risk and use his skills to support his team and service users. However, the mischief in this case is not related to Mr Afzal's competence it relates to his dishonesty which has been significant. Evidence of professional competence cannot mitigate the serious dishonesty found.

177. The panel had regard to proportionality and balanced the public interest against Mr Afzal's interests. The panel took into account the consequential personal, financial and professional impact a removal order may have upon Mr Afzal based on Ms Ramage's submissions but concluded that these considerations are significantly outweighed by the panel's duty to give priority to public protection and the wider public interest.

178. The panel concluded that the appropriate and proportionate order is a removal order.

Interim order

179. In light of its finding on sanction the panel next considered whether to impose an interim order. It was mindful of its earlier findings and decided that it would be wholly incompatible with those earlier findings if an interim suspension order was not made.

180. Accordingly, the panel concluded that an 18 month interim suspension order is necessary for the protection of the public. When the appeal period expires, this interim order will come to an end unless an appeal has been filed with the High Court. If there is no appeal, the final order of removal shall take effect when the appeal period expires.

Right of appeal:

181. 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.

182. 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.

183. 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.

184. 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:

185. 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

186. 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:

187. 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>.