

Social worker: Richard Akehurst

Registration number: SW111230

Fitness to Practise

Final Hearing

Dates of hearing: Tuesday 16 May 2023 to Thursday 18 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 Akehurst did not attend and was not represented.
3. Social Work England was represented by Ms Sophie Sharpe, case presenter, from Capsticks LLP.

Adjudicators	Role
Sara Nathan	Chair
Joma Wellings-Longmore	Social worker adjudicator
Moriam Bartlett	Lay adjudicator

Kathryn Tinsley	Hearings officer
Gabriella Berettoni	Hearings support officer
David Mason	Legal adviser

Service of notice:

4. Mr Akehurst did not attend and was not represented. The panel of adjudicators (hereafter “the panel”) was informed by Ms Sharpe that notice of this hearing was sent to Mr Akehurst at his registered email address as it appears on the Social Work England register on 12 April 2023. Ms Sharpe submitted that the notice of hearing complied with the requirement under Rule 14(a) to give not less than 28 calendar days’ notice of the hearing and with Rule 15 which required the notice to provide Mr Akehurst with the date, time and place of the hearing and a statement of case. She also referred the panel to a statement of service dated 12 April 2023 which she submitted was proof of service. Ms Sharpe submitted that the notice of this hearing had been duly served.
5. The panel of adjudicators had careful regard to the documents contained in the final hearing service bundle as follows:
 - A copy of the notice of the final hearing dated 12 April 2023 and addressed to Mr Akehurst at his email address provided by him to Social Work England;
 - An extract from the Social Work England Register as at 12 April 2023 detailing Mr Akehurst’s registered email address;
 - A copy of a signed statement of service, on behalf of Social Work England, confirming that on 12 April 2023 the writer sent an email to Mr Akehurst at the address referred to above containing the notice of hearing and related documents;
6. The panel accepted the advice of the legal adviser in relation to service of notice. He advised that the duty upon Social Work England was to prove that the notice was sent, giving 28 days’ notice of the hearing and that it provided the information required by the Rules. The

legal adviser advised that Social Work England did not have to prove that the notice was received by Mr Akehurst.

7. Having had regard to Rule 44 and all of the information before it in relation to the service of notice, the panel was satisfied that notice of this hearing had been served on Mr Akehurst in accordance with Rules 44.

Proceeding in the absence of the social worker:

8. The panel heard the submissions of Ms Sharpe on behalf of Social Work England. She referred the panel to Rule 43 and submitted that notice of this hearing had been duly served upon Mr Akehurst and that all reasonable efforts had been made to serve it. She informed the panel that no application for an adjournment had been made by Mr Akehurst and that there was no guarantee that adjourning today's proceedings would secure his attendance. Ms Sharpe further submitted that whilst Mr Akehurst had ceased to engage with Social Work England after the case management stage of the proceedings in February 2023, he was aware from then, that a hearing was to take place. Ms Sharpe submitted that efforts had been made by Capsticks to contact Mr Akehurst by phone, text and email but that there had been no response from him. Ms Sharpe submitted that Mr Akehurst had voluntarily chosen to absent himself from the hearing. She therefore invited the panel to proceed in the public interest in the expeditious and fair disposal of this hearing.
9. The panel accepted the advice of the legal adviser in relation to the factors it should take into account when considering this application. This included reference to Rule 43 of the Rules and the cases of *R v Jones [2003] UKPC*; *General Medical Council v Adeogba [2016] EWCA Civ 162*. The legal adviser advised that in deciding whether to proceed in Mr Akehurst's absence, it should proceed with great care and caution. He also advised that the panel should consider whether a fair hearing could take place in his absence and that the question of fairness applied to both Mr Akehurst and Social Work England. He advised that the panel should have particular regard to the public interest, as the regulator's function was to protect the public and to maintain standards in the profession.
10. In deciding whether to proceed in Mr Akehurst's absence, the panel accepted that it should do so with great care and caution.
11. The panel considered all of the information before it, together with the submissions made by Ms Sharpe on behalf of Social Work England. The panel noted that Mr Akehurst had been sent notice of today's hearing and the panel was satisfied that he was, or should be, aware of today's hearing.
12. The panel noted that Social Work England had tried to contact Mr Akehurst many times including with offers of out-of-hours communication, if that would facilitate his engagement. It concluded that Mr Akehurst had chosen voluntarily to absent himself from the hearing. It had no reason to believe that an adjournment would result in his attendance. The panel weighed the interests of Mr Akehurst in regard to his attendance at the hearing with those of Social Work England and the public interest in an expeditious disposal of this

hearing. The panel concluded that it was both in the public interest and in Mr Akehurst's interest for the case to be heard without delay and decided to proceed in his absence.

Allegations:

1. *When working as a Substance Misuse Specialist for the Harbour Centre, between on or around October 2019 and February 2020, you failed to maintain professional boundaries by:*
 - 1.1 *engaging in a sexual relationship with Service User 2*
 - 1.2 *exchanging inappropriate text messages with Service User 2;*
 - 1.3 *providing alcohol to Service User 2, who had a history of substance misuse;*
 - 1.4 *failing to undertake the required role of a social worker when allocated to Service User 2, in that you:*
 - 1.4.1. *did not create and/or record an appropriate treatment plan*
 - 1.4.2. *did not complete and/or record and/or update an appropriate risk assessment*
 - 1.5 *failing to ensure continuation of care for Service User 2 when your relationship with Service User 2 ended*

The matters outlined at (1) amount to the statutory ground of misconduct.

Your fitness to practice is impaired by reason of misconduct.

Admissions:

13. Rule 32c(i)(aa) of the 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.
14. Ms Sharpe referred the panel to an email from Mr Akehurst to Capsticks dated 05 February 2022 which was in response to the allegations then under consideration by the Case Examiners. She submitted that those draft allegations were in the same form to those now before the panel and that Mr Akehurst had admitted the facts for the purpose of Rule 32c(i)(aa).

15. The panel accepted the advice of the legal adviser that if it was satisfied Mr Akehurst had admitted the facts alleged at this hearing in his email of 05 February 2022, it should find those facts proved by admission.
16. The panel found allegation 1 proved in its entirety by Mr Akehurst's admission. It was satisfied that in his email of 05 February 2022 Mr Akehurst had admitted the facts contained in the allegation now before it.

Summary of evidence:

Social Work England

17. Social Work England provided the following background in its statement of case:

On 23 September 2020, Social Work England received a referral regarding the Respondent Social Worker, Mr Richard Akehurst ("the Social Worker"). The referral was made by the Social Worker's former employer, the Harbour Centre ("Harbour"), a specialist substance misuse charity, where the Social Worker had been employed as a specialist substance misuse worker.

The Social Worker worked as a Substance Misuse Specialist and was responsible for assessing and supporting vulnerable service users with complex needs and substance misuse issues.

The referral detailed concerns relating to the Social Worker's interactions with two service users.

In around July 2020, Service User 2 reported to the police that between October 2019 and February 2020 she and the Social Worker had been engaged in a sexual relationship. The Social Worker was, throughout the period of the relationship, Service User 2's allocated Substance Misuse Specialist. The police took no further action as Service User 2 had reported that the relationship was consensual.

Service User 2 had an ongoing substance misuse problem with alcohol and had a history of mental health issues, including suicide attempts. Service User 2 lived alone with her teenage son, who was then 15 years old; Service User 2 was described as being socially isolated.

Harbour investigated the concerns. Service User 2 was interviewed by Harbour staff. Service User 2 provided text messages, and an audio recording, which supported her account of the relationship.

The Social Worker was interviewed on 3 September 2020, during which he admitted the relationship with Service User 2. The Social Worker tendered his resignation shortly after the interview and prior to a formal disciplinary hearing.

18. Social Work England provided the panel with the following documents:

- Statement of case
- Witness statement of Ms Sophie Forder
- Exhibits bundle
- Mr Akehurst's response bundle

19. Social Work England called Ms Sophie Forder – Operations Manager at Harbour, who investigated the complaint made by Service User 2, as a witness.

Social worker

20. Mr Akehurst did not attend and did not provide the panel with written representations. The panel took into account Mr Akehurst's email to Social Work England of 05 February 2022 containing admissions and his comments on the allegations:

2.1 Yes I did have an inappropriate relationship with the client

2.2 Yes there were inappropriate texts

2.3 Yes I did purchase alcohol for her when she was ill, however I was encouraging her to water it down by 50%.

2.4 Yes in this case I didn't undertake the role of a Social Worker and am now very aware of how much I let her and myself down. While I entered the relationship with my eyes closed, with hindsight I now wish I had not got involved and had left the Social Work arena earlier. I was unhappy with my employment and struggling with mental health. This process, whilst just, hasn't helped with the process. However, I have complied with the requirements and have no wish to return to the Social Work arena.

2.5 I didn't create ongoing support for the client which I am sad to say I should have done

21. The panel also took into account the various emails and records of phone calls between Social Work England, Capsticks and Mr Akehurst contained in the documents before it.

Finding and reasons on facts:

22. The panel found the allegations proved in their entirety by Mr Akehurst's admissions and proceeded to consider whether the statutory ground of misconduct was made out as a result of its findings of fact.

Finding and reasons on grounds and current impairment:

Submissions

23. On behalf of Social Work England, Ms Sharpe submitted that the panel, having announced its findings of fact, was now required to decide first whether the statutory ground of misconduct was made out on the basis of those facts and if so, whether Mr Akehurst's fitness to practise is currently impaired.
24. In relation to misconduct, Ms Sharpe submitted that this was a matter for the panel's judgement and that there was no burden or standard of proof. She referred the panel to the case of *Roylance v GMC (No.2)* [2000] 1 AC 311 where Lord Clyde said that 'misconduct' is

"a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances."

and

"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."

25. Ms Sharpe submitted that to amount to misconduct the conduct must be serious. She referred the panel to standards applicable to Mr Akehurst at the relevant time:

HCPC Standards of Performance, Conduct and Ethics (2016)

1.7 *You must keep your relationships with service users and carers professional.*

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

Social Work England Professional Standards (2019)

1.7 *Recognise and use responsibly, the power and authority I have when working with people, ensuring that my interventions are always necessary, the least intrusive, proportionate, and in people's best interests.*

2.3 *Maintain professional relationships with people and ensure that they understand the role of a social worker in their lives.*

2.7 *Consider where conflicts of interest may arise, declare conflicts as early as possible and agree a course of action.*

5.1 *Not abuse, neglect, discriminate, exploit or harm anyone, or condone this by others.*

5.2 *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.*

26. Ms Sharpe submitted that there were similar local standards set by Mr Akehurst's employer during his employment.
27. Ms Sharpe submitted that the evidence given by Ms Forder was compelling as to the seriousness of Mr Akehurst's conduct. She said that this showed that Service User 2 had

informed the police of Mr Akehurst's conduct because she did not want others to have a similar experience to herself and to prevent it from happening again. Ms Sharpe said that it was apparent that whilst Service User 2 was struggling even to leave her bed, Mr Akehurst failed in his prime duty to protect her and that this was a basic and fundamental tenet of the profession. She said that Mr Akehurst had provided Service User 2 with no continuing support during and after the relationship he had with her and that this was in the context of Service User 2's 15 year old son having attempted suicide. This event had triggered her relapsing into alcohol abuse and being referred to Harbour, where Mr Akehurst worked. He was then assigned her case. Ms Sharpe submitted that it was difficult to imagine a more vulnerable person than Service User 2 and that Mr Akehurst's conduct towards her was a significant departure from what was expected of him by the standards of his profession and his employer.

28. Ms Sharpe submitted that whether Mr Akehurst's fitness to practise was currently impaired, was again a matter for the panel's judgment. She submitted that the panel should find that Mr Akehurst's fitness to practise was impaired. She referred the panel to the guidance on impairment in Social Work England's sanctions guidance and to the case of *Cohen v GMC* [2008] EWHC 581 where Silber J stated that:

"[a]ny approach to the issue of whether a doctor's fitness to practise should be regarded as 'impaired' must take account of 'the need to protect the individual patient, and the collective need to maintain confidence [in the] profession as well as declaring and upholding proper standards of conduct and behaviour of the public in their doctors and that public interest includes amongst other things the protection of patients, maintenance of public confidence in the'(sic)."

and

"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 remedied and third that it is highly unlikely to be repeated".

29. Ms Sharpe submitted that in relation to the first question in *Cohen*, Mr Akehurst's conduct was not remediable. She submitted that it amounted to the most serious kind of breach of trust which had taken place over a period of months and which had a serious effect on Service User 2. Ms Sharpe further submitted that the admitted facts in allegation 1.5 referred to a serious attempt by Mr Akehurst to cover up his misconduct, which was at Service User 2's expense as she was deprived of help when she was highly vulnerable. She submitted that Mr Akehurst had expressed some remorse, but little insight. Ms Sharpe said that whilst Mr Akehurst had claimed that his own health problems contributed to his behaviour, there was no medical or other evidence to support this. She submitted that the risk of Mr Akehurst repeating his misconduct was high as he had not shown sufficient insight and had not shown that he had reflected on the real harm he had caused to Service User 2, her child, his employer, others seeking help from social workers and the public. Ms Sharpe said that whilst the panel should not speculate on the effects of Mr Akehurst's conduct on

Service User 2's son, it was open to the panel to infer that as he was a vulnerable 15 year old, living with his mother at the time, he could have been harmed by these events.

30. Ms Sharpe submitted that even if Mr Akehurst's conduct was remediable, he had provided no evidence of him attempting to do so. She said that he had indicated that he had not renewed his Social Work England registration, and that whilst it was more difficult to demonstrate remediation when suspended, as Mr Akehurst was, it was possible for him to show some attempt to remedy his misconduct.
31. Ms Sharpe referred the panel to the case of *Council for Healthcare Regulatory Excellence v Nursing and Midwifery Council, Paula Grant*, where Cox J said an appropriate test for panels considering impairment of a doctor's fitness to practise, was the test formulated by Dame Janet Smith in her Fifth Shipman Report, namely:

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:

- i. 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*
- ii. has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- iii. 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*
- iv. has in the past acted dishonestly and/or is liable to act dishonestly in the future."*

32. Ms Sharpe submitted that in relation to questions i to iii the answer would be in the affirmative.
33. Ms Sharpe submitted that the panel should consider whether it was necessary for it to find that Mr Akehurst's fitness to practise was impaired to maintain standards in the profession and to protect its reputation. She submitted that members of the public would be surprised if there was no finding that his fitness to practise is impaired.

Legal advice

34. The legal adviser advised the panel that at this stage of the hearing it was required to consider whether the facts found proved amounted to the statutory ground of misconduct and, if so, whether, as a result, Mr Akehurst's fitness to practise was currently impaired. He further advised that in doing so it was required to exercise its judgment, and that there was no burden or standard of proof.
35. The legal adviser referred the panel to the case of *Roylance* and advised that the misconduct would have to be serious and that all misconduct did not necessarily amount to serious misconduct. He further advised that the panel should consider whether Mr Akehurst had fallen below the standards expected of a social worker.

36. The legal adviser advised that if the panel found that the statutory ground of misconduct was established, it would then have to consider whether, as a result, Mr Akehurst's current fitness to practise is currently impaired. He said that the panel would have taken account of past events, as contained in the facts found proved by Mr Akehurst's admissions.
37. The legal adviser referred the panel to *Grant* and *Cohen* and advised that the panel would have to consider whether Mr Akehurst posed a risk to the public if he were allowed to practise without restriction. The legal adviser also advised that the panel should consider whether a finding of impairment was necessary in the public interest, which included the need to maintain standards of conduct in the profession and to protect its reputation and that of its regulator. He advised that the panel should take into account Social Work England's guidance on findings of impairment.

The panel's findings on statutory grounds and impairment

38. The panel, in deliberating the statutory ground of misconduct and impairment, took fully into account the submissions made on behalf of Social Work England. It accepted the advice of the legal adviser. As Mr Akehurst was not present or represented, the panel took account of any material before it which was in his favour and gave it due weight.
39. The panel first considered whether Mr Akehurst's conduct amounted to serious misconduct. It referred to the standards of conduct relevant at the time as set out above. It found that Mr Akehurst was seriously in breach of them all. It particularly noted Ms Forder's evidence that Mr Akehurst was trusted by his employer to work independently and that he had breached that trust. He had exploited Service User 2 during working hours, and in doing so neglected his other service users. The panel noted Ms Forder's evidence that there was an expectation on staff to raise any issues relating to their allocated service users with their line manager. She said that by not making his line manager aware that all contact with Service User 2 had ceased, Mr Akehurst had placed Service User 2 in an extremely vulnerable position for many months and this impacted on her health and emotional well-being.
40. The panel noted that Ms Forder said it would be extremely rare for any social worker to give a service user alcohol and this would be done only in extreme situations with management oversight. She said taking alcohol to Service User 2's home was unprofessional and unacceptable.
41. When considering the impact that Mr Akehurst's actions had had on Service User 2, the panel took into account Ms Forder's evidence that Service User 2 reported struggling to talk to anyone, feeling unable to leave her home and that, in Ms Forder's words, it was an experience that had "immobilised" her. Ms Forder told the panel that Service User 2 had gone to the police in order to stop anything similar happening to other people.
42. It was clear to the panel that Mr Akehurst had taken advantage of a particularly vulnerable service user and had abused her trust and that of his employer. He had, it found, deprived Service User 2 of professional help and support which she needed and was entitled to over a period of months and had supplied her with alcohol only so that he could further abuse his

position of trust. The panel inferred that Mr Akehurst's conduct must have affected Service User 2's vulnerable son and that his conduct also damaged the reputation of his employer, others seeking social work help and the public. The panel was satisfied that Mr Akehurst was guilty of the most serious of misconduct.

43. In relation to whether Mr Akehurst's misconduct meant that his fitness to practise is currently impaired, the panel found that the questions referred to in *Grant* at i to iii were all answered positively in this case. It was satisfied that Mr Akehurst had placed a vulnerable service user at risk and had caused her harm and that his conduct would be viewed with great concern by the public. It concluded he was in serious breach of the basic and fundamental tenets of his profession: to respect others and not to abuse his position of power and trust.
44. The panel referred to the questions raised in the case of *Cohen*. It found that Mr Akehurst's conduct could not be remedied and that he had in any event not provided any evidence of him having attempted to do so. The panel found that Mr Akehurst showed no significant signs of insight or of reflection and understanding of the harm he had caused Service User 2 and others. The panel considered that Mr Akehurst's conduct caused Service User 2 to be deprived of professional help and support and that it was particularly reprehensible that when Mr Akehurst unilaterally and without an explanation to Service User 2 ended the relationship, he did nothing to ensure that Service User 2 was provided with help and support. The panel found that the only explanation for this was that Mr Akehurst was seeking to cover up his behaviour. The panel found that Mr Akehurst posed a serious risk to the public and similar behaviour would be highly likely to recur if no restriction was placed on his practice.
45. The panel went on to consider whether a finding of impairment was necessary to protect the public interest in maintaining standards in the profession and protecting its reputation. The panel was in no doubt that members of the public would be shocked and appalled by Mr Akehurst's conduct and would lose confidence in the profession and its regulator if there was no finding of impairment.
46. It was clear to the panel that a finding that Mr Akehurst's practice is currently impaired was necessary to protect the public and the public interest.

Decision and reasons on sanction:

Submissions

47. Ms Sharpe submitted on behalf of Social Work England that when considering what sanction, if any, to impose the panel should refer to Social Work England's guidance on sanction, revised in 2022. She submitted that any sanction imposed should be proportionate and the minimum necessary to protect the public and the public interest and that sanctions were not intended to be punitive, although they may have a punitive effect.

48. Ms Sharpe submitted that the sanction imposed by the panel should be consistent with the panel's finding that Mr Akehurst posed a risk to the public and the public interest. She submitted that the only sanction consistent with the panel's findings was the removal of Mr Akehurst from the Social Work England Register.
49. Ms Sharpe submitted that the panel should consider sanctions in ascending order of seriousness, beginning with those which placed no restriction on Mr Akehurst: taking no action, providing advice and issuing him with a warning. She submitted that none of these were consistent with the panel's earlier findings.
50. Ms Sharpe referred the panel to the guidance on imposing a conditions of practice order:

114. Conditions of practice may be appropriate in cases where (all of the following):

- the social worker has demonstrated insight
- the failure or deficiency in practice is capable of being remedied
- appropriate, proportionate, and workable conditions can be put in place
- decision makers are confident the social worker can and will comply with the conditions
- the social worker does not pose a risk of harm to the public by being in restricted practice

51. Ms Sharpe submitted that none of the requirements for a conditions of practice order applied in Mr Akehurst's case.
52. Ms Sharpe then referred the panel to the guidance on an order of suspension:

136. Suspension is appropriate where (both of the following apply):

- the decision makers cannot formulate workable conditions to protect the public or the wider public interest
- the case falls short of requiring removal from the register (or where removal is not an option)

137. Suspension may be appropriate where (all of the following) apply:

- the concerns represent a serious breach of the professional standards
- the social worker has demonstrated some insight
- there is evidence to suggest the social worker is willing and able to resolve or remediate their failings

138. Suspension is likely to be unsuitable in circumstances where (both of the following):

- the social worker has not demonstrated any insight and remediation
- there is limited evidence to suggest they are willing (or able) to resolve or remediate their failings

53. Ms Sharpe submitted that an order of suspension was inconsistent with the panel's findings that Mr Akehurst's misconduct was not remediable and that he had provided no evidence of any attempt to remedy it or of insight. She said that Mr Akehurst had said he did not intend to return to social work.

54. Ms Sharpe then referred the panel to the guidance on removal from the register:

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

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

149. A removal order may be appropriate in cases involving (any of the following):

- abuses of position or trust (see section 'abuse of trust')
- sexual misconduct (see section 'sexual misconduct')
- sexual abuse of children or offences involving child sexual exploitation material (see section 'convictions for sexual offences')
- dishonesty, especially where persistent and/or concealed (see section 'dishonesty')
- criminal convictions for serious offences (see section 'criminal convictions and cautions')
- violence
- persistent lack of insight into the seriousness of their actions or consequences
- social workers who are unwilling and/or unable to remediate (for example, where there is clear evidence that they do not wish to practise as a social worker in the future)

55. Ms Sharpe submitted that the requirements for an order of removal from the register were met in Mr Akehurst's case and that this was the appropriate sanction. She referred to the panel's findings of Mr Akehurst having abused his position of trust and power, his lack of insight and his exploitation of a vulnerable service user. She submitted that in cases of sexual misconduct removal would normally be the only appropriate sanction.

56. Ms Sharpe submitted that the panel should consider what mitigating and aggravating factors applied to Mr Akehurst's conduct. She submitted that the only mitigating factor was that Mr Akehurst had no previous regulatory history. In relation to aggravating factors, Ms Sharpe said that these included the vulnerability of Service User 2, the exposure of a child to Mr Akehurst's conduct, the devastating impact of his conduct on Service User 2, his lack of support for her during and after his relationship with her, supplying Service User 2 with alcohol, and the breach of the trust placed in him by Service User 2 and his employer.

Legal advice

57. The legal adviser advised that the decision as to what was the appropriate sanction for the panel to impose on Mr Akehurst was a matter for its judgement. He advised that sanctions were not intended to be punitive, although they might have that effect and that the panel should have fully in mind the need to protect the public and the overarching objective of Social Work England.
58. The legal adviser advised that the panel should, throughout its deliberations, refer to Social Work England's current guidance on sanctions. He advised that the panel should apply the principle of proportionality, and should impose the minimum restriction on Mr Akehurst's practice necessary to protect the public and the public interest.
59. The legal adviser advised that the panel should consider what mitigating and aggravating factors were present in the case. He advised that the panel should then consider the sanctions open to it in ascending order of seriousness, although a panel could, when considering a sanction, look at the next sanction upwards in severity to see if it were more appropriate.
60. In relation to the sanctions open to the panel, the legal adviser advised that the panel should first consider those sanctions which imposed no restriction on Mr Akehurst's practice, beginning with taking no action, which he said would be an exceptional course, providing advice or issuing a warning.
61. The legal adviser then referred the panel to conditions of practice orders. He advised that this would need to be workable and the panel would need to be sure that Mr Akehurst would comply with a conditions of practice order. The legal adviser advised that the panel would have to be sure that the order would meet the public interest.
62. The panel was then referred by the legal adviser to the sanction of suspension from the register. He advised that if suspension was not a sufficient or appropriate sanction, then removal of Mr Akehurst from the register was inevitable.

The panel's decision on sanction

63. The panel first considered what mitigating and aggravating factors applied to Mr Akehurst. In mitigation, the panel notes that Mr Akehurst had no previous regulatory findings against him. In considering aggravating factors, the panel was careful not to double count factors against Mr Akehurst which had led to its findings of misconduct and impairment. It found that the overriding aggravating features of Mr Akehurst's case were his exploitation of a highly vulnerable person, the impact on her and her teenage son and Mr Akehurst's breaches of trust and power.
64. The panel then considered whether taking no action against Mr Akehurst, providing him with advice or issuing a warning were appropriate sanctions. It found these outcomes were entirely inconsistent with its previous finding of exceptionally serious misconduct by Mr Akehurst.
65. The panel considered whether a conditions of practice order was appropriate. It took full account of the factors set out in the guidance indicating in what circumstances an order

would be appropriate. It found that a conditions of practice order was wholly insufficient in Mr Akehurst's case. The panel considered that Mr Akehurst's misconduct was so serious that even had he met the criteria for a conditions of practice order, which he did not, that sanction would not meet the need to uphold standards in the profession and to protect its reputation.

66. The panel then considered whether suspension of Mr Akehurst's registration would be an appropriate sanction. It considered the factors set out in the guidance, in particular at paragraph 137, and concluded that Mr Akehurst's misconduct was such that his case did not meet the criteria set out there. It also considered the guidance at paragraph 138. It was clear to the panel that Mr Akehurst had demonstrated little or no insight and had shown no willingness or intention to remedy his misconduct.
67. The panel referred to the guidance about removal from the register at paragraph 148. It was satisfied that no other outcome was sufficient to protect the public from Mr Akehurst and to maintain standards and confidence in the profession. It also referred to paragraph 149 and found that the following factors set out there applied to Mr Akehurst:

- abuses of position or trust
- sexual misconduct
- persistent lack of insight into the seriousness of their actions or consequences
- social workers who are unwilling and/or unable to remediate (for example, where there is clear evidence that they do not wish to practise as a social worker in the future)

68. The panel referred to the guidance on breach of trust. It took account of the following:

154. Social workers hold privileged positions of trust. Their role often requires them to engage with vulnerable people. It is essential to the effective delivery of social work that the public can trust social workers. Any abuse of trust by a social worker is a serious and unacceptable risk in terms of public protection and confidence in the profession.

155. A social worker may abuse their professional position in a number of ways, for example (by doing any of the following):

crossing professional boundaries by engaging in inappropriate personal relationships

...

69. The panel also referred to the guidance on sexual misconduct. It took account of the following:

161. Decision makers should consider imposing a more serious sanction if they find the social worker impaired because of sexual misconduct. This is because of the seriousness of these types of cases.

162. Serious cases of sexual misconduct may include, but are not limited to (any of the following):

- ...
- circumstances involving an abuse of professional position by the social worker
- conduct involving children or vulnerable individuals. (Factors contributing to vulnerability may include mental illness, age, disability, lack of capacity, or history of abuse or neglect)

163. In all cases of serious sexual misconduct, it will be highly likely that the only proportionate sanction is a removal order...

70. Having considered all of that guidance and its earlier findings, the panel was satisfied that the only sanction in this case to protect the public and the public interest was removal of Mr Akehurst from the register. It was clear to the panel that Mr Akehurst's sexual and emotional exploitation of a vulnerable service user and his abuse of trust and power, which it has detailed in its findings, render him wholly unsuitable to remain on the Social Work England Register.

Interim order:

71. In light of its findings on sanction, the panel next considered an application by Ms Sharpe for an interim suspension order to cover the appeal period before the final order becomes effective.
72. The panel 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 not to restrict Mr Akehurst's practice during the appeal period.
73. Accordingly, the panel concluded that an interim suspension order is necessary for the protection of the public and the public interest. 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:

74. 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.
- 75. 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.
- 76. 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.
- 77. 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:

- 78. 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
- 79. 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:

- 80. 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>.