

# Social Worker: Isha Gabriel

## Registration Number: SW6493

### Fitness to Practise

### Final Order Review Hearing:

Hearing Venue: Remote hearing

Date of hearing: 4 May 2021

Final Order being reviewed:  
Suspension Order (due to expire 22 June 2021)

Hearing Outcome:  
Removal Order (to take effect upon expiry of the current suspension order)

### Introduction and attendees:

1. This is the sixth review of a final order originally imposed as a suspension order for a period of 12 months by a Fitness to Practise Committee of the Health and Care Professions Council (HCPC) on 25 August 2015.
2. Ms Gabriel attended. She was not legally represented, but had the support of a family member.
3. Social Work England was represented by Ms Brieskova, presenting officer from Capsticks LLP.

| Adjudicators    | Role                    |
|-----------------|-------------------------|
| Rachel Cook     | Chair                   |
| Beverley Blythe | Social Work Adjudicator |
| Sandra Noburn   | Lay Adjudicator         |

| Hearings Team/Legal Adviser | Role                     |
|-----------------------------|--------------------------|
| Natasha Quainoo             | Hearings Officer         |
| Laura Merrill               | Hearings Support Officer |
| Megan Ashworth              | Legal Adviser            |

### Preliminary Application to hear the case in private:

4. The panel heard an application by Ms Brieskova on behalf of Social Work England for the hearing to be conducted entirely in private. Rule 38(a)(ii) of the Social Work England (Fitness to Practise) Rules 2019 (the rules) directs that a hearing shall be held in private if the hearing is considering the physical or mental health of the registered social worker. The panel heard and accepted the advice of the legal adviser. The panel was satisfied that this was a hearing which was considering the *redacted* health of the registered social worker, as the original allegation under consideration alleged that Ms Gabriel's fitness to practise was impaired by reason of her *redacted* health, and the panel today would be reviewing the order in light of Ms Gabriel's current state of health. The panel determined that the whole review would, therefore, be heard in private.

### Review of the current order:

5. This final order review hearing falls under the Transitional and Savings Provisions (Social Workers) Regulations 2019 and as a result the review will be determined in accordance with Part 5 of the Regulations, Schedule 2 paragraph 15 of the Regulations and Social Work England's Fitness to Practise Rules. The current order is due to expire at the end of 22 June 2021.

The allegation found proved which resulted in the imposition of the final order was as follows:

*By reason of your physical and/or mental health, your fitness to practise as a social worker is impaired*

### Background and chronology of proceedings:

6. *Redacted*

#### The final hearing panel on 25 August 2015:

7. The matter was referred to the HCPC and the fitness to practise hearing took place on 24 and 25 August 2015. *redacted*. As a result of that hearing, Ms Gabriel was made the subject of a 12-month suspension order, *redacted*
8. *Redacted*
9. *Redacted*

#### First review hearing on 19 August 2016:

10. At the first review hearing on 19 August 2016, the reviewing *redacted* had little option but to impose a further 12-month suspension order. It identified evidence that the Registrant may wish to provide at a future review, including certificates of attendance on courses and a reference from her current employer.

#### Second review hearing on 22 August 2017:

11. At the second review hearing on 22 August 2017, Ms Gabriel attended and provided information as recommended at the first review. The second reviewing panel decided to impose a conditions of practice order for 18 months, taking into consideration the significant remedial steps that had been undertaken by Ms Gabriel and the insight she had demonstrated at the hearing.

#### Third review hearing on 18 February 2019:

12. At the third review hearing on 18 February 2019, the reviewing panel considered that there was a lack of any up-to-date medical evidence *redacted*. As a result of this, the reviewing panel decided that the only proportionate order, at that time, was a 12-month suspension *redacted*.

#### Fourth review hearing on 8 February 2020:

13. The case was transferred to Social Work England, which took over the regulation of social workers from the HCPC. At the fourth review on 8 February 2020, the reviewing panel *redacted* felt it necessary and proportionate to make a suspension order for 12 months. The panel considered, but dismissed as disproportionate, an order of removal. *Redacted*.

#### Fifth review hearing on 8 February 2021:

14. At the fifth review on 8 February 2021, the reviewing panel heard the matter, and Ms Gabriel attended. *redacted*. In light of the absence of information, and recognising its obligation to protect the public, it concluded that Ms Gabriel's fitness to practise was impaired. The panel acknowledged the stated wish of Ms Gabriel to be removed from the register, but was guided by the presenting officer who said that was not an option available to it at that time. The panel considered that a suspension order continued to be the most proportionate and appropriate order to meet the ongoing risks identified. It imposed a suspension order for three months noting that this period would also give her time to consider the implications of removal.

#### Social Work England submissions:

15. The panel heard submissions from Ms Brieskova as to the background and the previous panel's findings in relation to impairment and sanction. Ms Brieskova explained that the position of Social Work England was set out in the notice. She submitted that Social Work England requested removal from the register *redacted*.

#### Social Worker submissions:

16. Ms Gabriel confirmed that she sought removal from the register. *redacted*

17. *redacted*

18. Ms Gabriel explained that she had written to Social Work England in February 2020 requesting removal and had been told she could not be removed whilst under fitness to practise proceedings. Then, in November 2020, when she had to renew her registration, she briefly re-considered that decision, but had subsequently reflected and confirmed in February 2021 that she wished to be removed.

### Panel decision and reasons on current impairment:

19. In considering the question of current impairment, the panel undertook a comprehensive review of the final order in light of the current circumstances. It took into account all of the information before it, including the decisions of the previous panels, and the submissions made by both Ms Brieskova on behalf of Social Work England and Ms Gabriel on her own behalf. It has exercised its own judgement in relation to the question of current impairment.
20. The panel heard and accepted the advice of the legal adviser. Her advice included that, at a review, the onus was on the social worker to demonstrate that they were fit to resume unrestricted practice. In reaching its decision, the panel was mindful of the need to protect the public and the wider public interest in maintaining public confidence in the profession as well as declaring and upholding standards.
21. The panel first considered whether Ms Gabriel's fitness to practise remains impaired.
22. *redacted*
23. *redacted*
24. *redacted*
25. The panel was mindful that Ms Gabriel has been either suspended or under conditions of practice since 2015, and that when under conditions, she did not secure a social work post. Consequently, although she has worked as a family support worker since 2017, she has not worked as a social worker since that time. The panel noted that Ms Gabriel has not provided evidence that she has kept her skills and knowledge up to date, or that she has maintained her CPD.
26. *Redacted* the panel considered that Ms Gabriel had not discharged the onus on her to demonstrate that she was fit to resume unrestricted practice.
27. In all the circumstances, the panel considered that Ms Gabriel's fitness to practise remains impaired on the grounds of public protection, which includes the components of promoting and maintaining public confidence in the profession and upholding professional standards.

### Decision and reasons on sanction:

28. Having found Ms Gabriel's fitness to practise is currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted the submission of Social Work England that removal was the appropriate sanction, and the response of the social worker that she did not intend to work as a social worker in the

future. The panel had regard to the Sanctions Guidance issued by Social Work England and accepted the advice of the legal adviser.

29. The panel was mindful that the purpose of any sanction is not to punish the social worker, but to protect the public and the wider public interest. The panel applied the principle of proportionality by weighing the social worker's interests with the public interest and by considering each available sanction in ascending order of severity.

#### No Action, Advice, or Warning

30. The panel concluded that it would be inappropriate to take no action, or to issue advice or a warning. *Redacted*, none of these options would be sufficient to protect the public, maintain public confidence and uphold the reputation of the profession.

#### Conditions of Practice Order

31. The panel went on to consider a conditions of practice order. *Redacted* The panel considered that the position today was that it was not possible to formulate achievable or workable conditions which would sufficiently protect the public as well as to maintain public confidence in the profession and the regulator.

#### Suspension Order

32. Having determined that a conditions of practice order would not be appropriate, the panel went on to consider whether a suspension order would be the appropriate and proportionate response. It acknowledged that such an order would protect the public for the period for which it was in place. However, the panel also questioned whether it would satisfy the public interest, in terms of maintaining public confidence in the profession and upholding professional standards. *Redacted* Consequently, the panel did not consider that a suspension order was the appropriate and proportionate sanction.

#### Removal Order

33. The panel considered that this was a social worker who had now expressed a settled wish not to practise as a social worker. Having heard from Ms Gabriel, the panel was satisfied that she had reflected on whether she wished to return to practice or seek removal, and that she understood the consequences of what removal would entail. Having ruled out a suspension order, the panel determined to impose a removal order. It was satisfied that this was the only sanction sufficient to satisfy public protection, which includes the components of maintaining the reputation of the profession and upholding standards.
34. Consequently, the panel directs that Ms Gabriel be removed from the social work register upon the expiry of the existing suspension order, under Schedule 2, paragraph

13(2)(b), being satisfied that she has been continuously suspended from practice for a continuous period of two years immediately preceding the making of this removal order.

## Right of Appeal:

1. Under paragraph 16 (1) (b) of schedule 2, part 5 of the Social Workers Regulations 2018, the Social Worker may appeal to the High Court against:
  - a. the decision of adjudicators:
    - i. to make an interim order, other than an interim order made at the same time as a final order under paragraph 11(1)(b),
    - ii. not to revoke or vary such an order,
    - iii. to make a final order,
2. the decision of the regulator on review of an interim order, or a final order, other than a decision to revoke the order.
  - a. Under regulation 16 (2) schedule 2, part 5 of the Social Workers Regulations 2018 an appeal must be made within 28 days of the day on which the social worker is notified of the decision complained of.
3. Under regulation 9(4), part 3 (Registration of social workers) of the Social Workers Regulations 2018, this order can only be recorded on the register 28 days after the social worker was informed of the decision or, if the social worker appeals within 28 days, when that appeal is exhausted.
4. This notice is served in accordance with rules 44 and 45 of the Social Work England Fitness to Practice Rules 2019.

## Review of final orders

5. Under regulation 15 (2) and 15 (3) of schedule 2, part 4 of the Social Workers Regulations 2018:
  - 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.

6. Under rule 16 (aa) of Social Work England's fitness to practise rules, a registered 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.