

Social Worker: Tariq Ali

Registration Number: SW88380

Fitness to Practise:

Final Hearing

Date(s) of hearing:- 26 September to 30 September 2022, 20 January to 25
January, 20 February, 25 May to 26 May 2023

Hearing Venue: Remote hearing

Hearing outcome: 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.
2. Mr Ali attended and was represented by Ms Laura Sheridan.
3. Social Work England was represented by Mr Carey, as instructed by Capsticks LLP.

Adjudicators	Role
Matthew Fiander	Chair
Charlotte Scott	Social Work Adjudicator
Cherrylene Henry-Leach	Lay Adjudicator

Paige Swallow	Hearings Officer
Gabriella Berettoni	Hearings Support Officer
Pamela Johal	Legal Adviser

Service of Notice:

4. In advance of the hearing, both parties agreed that service had been properly affected. Having had regard to Rules 14, 15 and 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 Ali in accordance with the Rules.

Allegation(s) as amended 27.09.2022

The allegations arising out of the regulatory concerns referred by the Case Examiners on 14 February 2022 are:

Whilst registered as a social worker working for Birmingham Children's Trust between 1 November 2016 to 28 February 2017:

1. *You made inaccurate and/or poor-quality case notes as set out in Schedule A*
2. *Your actions in relation to paragraph 1 were dishonest in that you knowingly falsified records by duplicating earlier record entries*

Your actions in relation to paragraph 1 and/or 2 above amount to the statutory ground of misconduct

By reason of your misconduct your fitness to practise is impaired.

Schedule A

	Service User	Action	On or around Date
i	A1	Duplicated the earlier case recording	06/12/2016 and 05/01/2017

ii	A2	Duplicated the earlier case recording	06/12/2016 and 05/01/2017
iii	A3	Duplicated the earlier case recording	23/12/2016 and 03/02/2017
iv	A4	Duplicated the earlier case recording	23/12/2016 and 03/02/2017
v	B	Duplicated the earlier case recording	14/11/2016 and 07/12/2016
vi	C	Duplicated the earlier case recording	03/11/2016 and 23/12/2016
vii	D	Duplicated the earlier case recording	09/11/2016 & 23/12/2016
viii	E1	Duplicated the earlier case recording on two occasions	17/11/2016, 16/12/2016 and 19/01/2017
ix	E2	Duplicated the earlier case recording on two occasions	17/11/2016, 16/12/2016 and 19/01/2017
x	E3	Duplicated the earlier case recording on two occasions	17/11/2016, 16/12/2016 and 19/01/2017
xi	F	Duplicated the earlier case recording	16/11/2016 and 12/12/2016
xii	G1	Duplicated the earlier case recording on two occasions	25/11/2016, 03/01/2017 and 07/02/2017
xiii	G2	Duplicated the earlier case recording on two occasions	25/11/2016, 03/01/2017 and 07/02/2017
xiv	G3	Duplicated the earlier case recording on two occasions	25/11/2016, 03/01/2017 and 07/02/2017
xv	G4	Duplicated the earlier case recording on two occasions	25/11/2016, 03/01/2017 and 07/02/2017

Preliminary matters & Admissions

5. 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.
6. Ms Sherridan, on behalf of Mr Ali, admitted allegation 1 in full.

"You made inaccurate and/or poor-quality case recordings as set out in Schedule A"

Summary of Evidence

7. Social Work England relied on various documents, which included, but were not limited to:
 - a. Witness statements from:

- (a) SC, the Head of Service at Birmingham Children's Trust (the Trust) at the time of the events before this panel;
- (b) AC, Team manager for the Child Care Team 5 for Birmingham City Council ("the Council") and Social Worker's direct line manager;
- (c) PJ (Current Line manager);
- (d) Social worker Mr Ali;
- (e) JH, Investigator at Social Work England and
- (f) AO, current Head of Service at the Trust;

- b. Statement of Case
- c. Witness Statement Bundle
- d. Exhibit Bundle
- e. Social Worker's Response Bundle
- f. ID Key and
- g. Schedule of agreed facts produced by Ms Sheridan.

Background

8. On 18 January 2018, Social Work England received a referral from KS at HCL Workforce Solutions ("HCL") regarding the Respondent social worker, Mr Tariq Ali ("the Social Worker"). In the referral she named SC of Birmingham Children's Trust ("the Trust") as the point of contact.
9. At the relevant time the Social Worker was employed by the Trust as an agency Senior Social Worker through HCL. The Social Worker was employed on an agency basis at the Trust between 7 September 2016 and 20 October 2017. The referral followed a complaint from the Trust to HCL raising concerns regarding the Social Worker's practice. Following concerns being raised regarding the Social Worker's practice. The Trust had undertaken an audit of the Social Worker's records which covered a period between the beginning of November 2016 and end of February 2017. That audit had identified a number of entries made on different dates which appeared to be a duplicate of an earlier entry. It was not clear from the records whether the visits had occurred and were inaccurately recorded or had not occurred but a duplicate entry made.

Finding and reasons on facts

10. The panel accepted the advice of the legal adviser that the burden of proof rested on Social Work England to prove the allegations on the balance of probabilities and that Mr Ali need prove nothing. The panel had regard to Rule 32(c) which provides that "The adjudicator or regulator must first determine any disputed facts".
11. Although the allegations were admitted in part, the panel accepted that it was necessary to determine whether Social Work England had proved their case to the requisite standard.

12. The panel accepted the evidence of SC and AC, which was supported by the documentary evidence exhibited in the bundle. The panel considered Mr Ali's admission to allegation 1. It noted that he was represented and would have had the benefit of advice on both the law and the evidence.
13. The panel accepted the advice of the legal adviser that the relevant legal test to apply in determining allegation 2, which is an allegation of dishonesty, was that set out by the Supreme Court in *Ivey v Genting Casinos* [2017] UKSC 672. The judgment states:

'When dishonesty is in question, the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts...once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.'
14. The panel noted that Mr Ali has admitted that the duplication of records occurred as set out in Schedule A and he has done so by admission and by way of agreed fact 1. Having considered the entirety of the evidence, the panel find allegation 1 proved.
15. The panel noted Mr Ali has admitted that carrying out the duplications as set out in Schedule A would be regarded as dishonest by the standards of ordinary people, he has done so by agreed fact five which states "Mr Ali accepts that the practice of duplicating records (as set out in Schedule A) was dishonest by the standard of ordinary people". The panel find that Mr Ali in part admits elements of allegation 2 but 'falsifying' records is denied on the basis that falsifying requires an intention by him to mislead.

Sequence of Events

16. The panel bore in mind that some of the evidence regarding the dates of some of the relevant events in this case were contradictory. However, the evidence as to their sequence was clear. The panel found the sequence of events in relation to the allegations was as follows:

 - 1 AC received a phone call from the foster carer of four of the children on Mr Ali's caseload (service users A1, A2, A3 and A4) stating that they had not seen Mr Ali for many months. (The panel accepted AC's evidence that it was this phone call that first alerted him to a potential issue with Mr Ali's recording of visits.)
 - 2 AC checked the Council's IT system which showed that Mr Ali had visited the foster carer's children. (The panel accepted AC's evidence that this is what he did.)
 - 3 On 28 February 2017 AC ran an enquiry of the IT system relating to visits to service users A1, A2, A3 and A4 covering the period 1 November 2016 to 28 February 2017. (The dates of the enquiry period are shown at the head of each print out. The date of the enquiry was evidenced by the 'Date Printed' at the foot of each record. The panel

noted that, at the bottom of the case note printouts of the audit data produced, there is a box that states 'case recording exists for later dates' and 'no'. The panel interpreted this as indicating that at the time the audit reports were run there were no subsequent records. This assists the panel in being able to time them in relation to the printout. The panel finds that these are contemporaneous documents and are evidence that those are the records that existed in relation to service users A1, A2, A3 and A4 as at the 28 February 2017.)

- 4 AC discussed with SC the apparent contradiction between the foster carer's report and what appears in the records in relation to visits to service users A1, A2, A3 and A4. (The panel accepted AC's evidence that he checked the records and had a conversation with SC. In AC evidence he was unsure about the sequence of events but the panel determined it was more likely than not that AC checked them on the 28 February 2017. The panel accepted the evidence of AC and SC that AC had had a conversation with SC who instructed him to look at the records for all the children on Mr Ali's caseload.)
- 5 On 6 March 2017 AC ran a further enquiry of the IT system relating to visits to the other service users on Mr Ali's caseload covering the period 1 November 2016 to 27 February 2017. (The dates of the enquiry period are shown at the head of each print out. The date of the enquiry was evidenced by the 'Date Printed' '06/03/2017' at the foot of each record. The panel noted that at the bottom of the case note printouts of the audit data produced there is a box that states 'case recording exists for later dates' and 'no'. The panel interpreted this as indicating that at the time the audit reports were run there were no subsequent records. This assists the panel in being able to time them in relation to the printout. The panel finds that these are contemporaneous documents and are evidence that those are the records that existed in relation to the other service users on Mr Ali's caseload as at the 27 February 2017.)
- 6 AC carried out an audit of Mr Ali's entire caseload covering the period from 1 November 2016 to 27 or 28 February 2017 over several subsequent months and provided a written analysis of his findings. (The panel accepted AC's evidence.)

The panels analysis

17. The panel had regard to the audit data. It noted that AC checked the records and had a conversation with SC. In AC's evidence he was unsure about the sequence of events but the panel determine it was more likely that AC checked the records relating to service users A1, A2, A3 and A4 on 28 February 2017. He had a conversation with SC who instructed him to look at all the records and subsequently 6 days later he printed off those

records and carried out the audit over subsequent months and provided a written analysis.

18. The panel accept the evidence that at some point prior to 28th February 2017 when the first print out was run, the foster carer who was looking after service users A1, A2, A3 and A4 contacted AC either directly or indirectly. The foster carer stated that they had not seen Mr Ali for a few months and asked whether he was ok and whether they still had an allocated social worker.
19. AC told the panel that he checked the records and produced a printout on the 28 February 2017 and came to the conclusion that there may have been a problem with case recording by Mr Ali not recording visits. AC discussed this with the head of service SC and as a result she directed that all of Mr Ali's cases were to be audited.
20. The panel noted that AC stated that he conducted an audit of the electronic system to record visits to service users. He noted that, *"The intention is for a social worker to seek to develop their relationship with the child service user over the course of six to twelve months and for the narrative in relation to that developing relationship to be recorded on the case record. There is no time limit to a visit but within that visit, there are certain things that the social worker is meant to do."*
21. AC told the panel that he then produced a printout from the 6 March 2017 on the rest of Mr Ali's cases and during the next 3 months analysed these records. This is inconsistent with his witness statement provided in the bundle. The panel accepts that the printouts were produced on the dates on their face.

Duplicated Entries

22. The panel had regard to AC's analysis regarding the duplicate entries, as follows:
 - *'Looking at these two case records, I noted that the second sentence is the same for the social workers visit on the 5 January 2017 and his visit on the 6 December 2016 for both service user A1's and service user A2's records, namely "FC helped me fill in some gaps in the CPR"'*(Paragraph 21 of AC's Statement).
 - *'The issue was in the detail, as it is suggested by the social worker that on both visits the children's CPR was discussed with the same language and same narrative as to how things took place. Whilst there might be some minor crossover on parts, I would not expect there to be no difference in the case recordings for these visits. These records do not give the impression that there's any difference in the narrative between the visits made by the social worker on the 5 January 2017 and the 6th December 2016'.*
 - *'I attach the client case records for service user F at Exhibit AC/8. Looking at these case recordings, I noted that the visits dated 16/11/2016 and 12/12/2016 which provides the start date for the mother's community parent assessment to commence. As I have highlighted in paragraph 21, whilst there may be some minor crossover on parts of statutory visits. It would be very unusual in a time period of six weeks between*

statutory visits that the child and the foster carers would behave and discuss exactly the same things word for word. I would have expected there to at least have been a recorded discussion in the 12/12/2016 visit about how the community-based parenting assessment was progressing and around the foster carers' plans for Christmas and New Year.' (Paragraph 30 of AC's Statement).

- *'I attach the client case records for Service Users G1, G2, G3 and G4 as Exhibit AC/9. Looking at these case recordings, I noted that the visits dated 25/11/2016, dated 03/01/2017 and dated 07/02/2017 were very similar. In fact, the visits dated 25/11/2016 and 07/02/2017 are identical apart from the updated adult visits recorded on the 07/02/2017 visit. It is not possible that both visits are accurate. The details shared in the 25/11/2016 record in respect of discussions held between the Social Worker and the child cannot be exactly the same as the discussions held months later with the exact same narrative recorded. There are also significant recording similarities to the visit dated 03/01/2017.'* (Paragraph 31 of AC's statement).

23. It is not alleged that Mr Ali did not make the statutory visits and therefore the panel did not consider this. It was submitted that this was a likely explanation, but the panel could not and did not come to a determination as to whether or not the visits took place.
24. The panel had particular regard to the nature and extent of the duplication of records. The panel had particular regard to the three recorded visits to one family (service users G1, G2, G3 and G4). The panel noted that the only difference between those three records are contained within the 'adult views' sections of the case record plus one difference in relation to observations, which was the removal of the earlier entry. The panel further noted that the first 5 paragraphs of the visit of 7 February 2017 and the visit of 25 November 2016 are identical for each service user. These records contain quite specific details of interactions with a child. The panel considered the conversation whereby G2 stated *'that he thought I was funny but thought my jokes were really bad'*. The panel has concluded that this conversation did not take place twice as indicated by the records.
25. The first paragraph that relates to the 'adult views' is identical but there are differences later. The 'adult views' are different and there is a penultimate paragraph note headed 'observations'. Whilst the first 2½ lines are identical, the more recent entry on 7 February 2017 has the following *'family finder has arranged to meet with X to discuss this further.'*
26. The final paragraph confirmed no concerns raised by the siblings and that is also identical.
27. The panel has had regard to the nature and content of the entries. From the panel's reading of the reported conversations Mr Ali had with the children, it is clear to the panel that Mr Ali had conducted at least one visit and that this is likely to have occurred at the earliest date recorded. However, what appears in the records of the subsequent visits is not necessarily evidence that subsequent visits took place. The panel has had regard to changes in the 'adult view' section. In the panel's assessment there is nothing within that information which can only have been obtained during a visit.

28. The panel noted in particular a record of an intervening visit on 3 January 2017. This record had significant similarities to the records of visits on 25 November 2016 and 7 February 2017 but contained a unique phrase about a particular conversation he had with service user G1, which is not contained within the other records. Mr Ali recorded a discussion about what G1 received for Christmas. The panel considers it more likely than not that this discussion occurred at the first contact after Christmas whenever that occurred.
29. The panel found that it was more likely than not that two of these three visits took place. The only differences related to the 'adult views' which could have been obtained by telephone.
30. The panel concluded that the level of duplication within the records renders them severely deficient and misleading, as they set out a false picture of the children on these purported visits. Whilst two of the records contain information that is relevant and likely to be correct they contain a significant amount of false information and do not demonstrate that three visits occurred.
31. Considering the entirety of the records listed in schedule A, the panel concluded that the nature and content of the records showed systemic misrepresentation. It had regard to the fact that the records were made over some 3 months from November 2016 to February 2017 affecting some 15 children. The panel had regard to the fact that Mr Ali's evidence was that during those 3 months, i.e., December, January and February, Mr Ali's caseload comprised of only 14 people; his caseload increased only subsequently.
32. The panel found a systemic approach to case recording during these 3 months, regarding all of the children in Mr Ali's caseload in relation to statutory visits.
33. Although Mr Ali admitted allegation 1 that there were inaccurate recordings of poor quality, and the panel found them to be fundamentally misleading, the panel found it not credible that he had had essentially the same conversation twice. The panel found that not all of the records which Mr Ali created reflected statutory visits to the children on his caseload. The panel found that a significant proportion of these duplicated records to be false.

State of mind

34. The panel had regard to admitted fact 2, that said Mr Ali was aware that he was producing inaccurate and untrue records when he did so. Mr Ali accepts he did the cutting and pasting and he now accepts that they were inaccurate and untrue. The panel made the finding they were grossly untrue and misleading.
35. The panel finds that when Mr Ali duplicated earlier conversations he had had with the children, he cannot have failed to realise that what he was recording was false. He cannot have failed at the time he made the duplicate records to appreciate what he was creating was untrue. The panel as the fact-finding tribunal concluded that Mr Ali's knowledge and belief as to the fact of creating the entries was, at the time he made the records, that he was knowingly creating false and misleading entries. The panel concluded that Mr Ali's conduct was indeed dishonest by the standards of ordinary decent people.

36. The panel considered Mr Ali's explanations that he duplicated records because he was under pressure at work and in relation to a particular matter in his private life. He maintained that he did not form any intent to mislead and was not thinking about what he was doing. Mr Ali invited the panel to believe that he was so stressed that he was not thinking straight but the panel was not assisted by any medical evidence to this affect. Mr Ali claims he was under enormous pressure at the time, he found life very difficult and he cited various evidence of his caseload being increased in May or June after these events and this was part of his submissions in that Mr Ali agreed to take on new cases so some of the old ones could go.
37. The panel thought it was important to note that Mr Ali's caseload did increase from May/June and believes that was the point Mr Ali was making. However, when Mr Ali advanced this explanation he did not appreciate that his manager had found that entries had been duplicated in December 2016, January and February 2017.
38. It was Mr Ali's case that the duplicated entries he made occurred only in December 2016 to February 2017. He told the panel that prior to and after this period, his usual practice was to make notes during the visit and enter them on the Trust IT system promptly. He explained his change in practice as due variously to an increase in his caseload and/or consequences of a specific event in his personal life. However, the panel has rejected these explanations as they were not contemporaneous to his change in practice. In May/June 2017 Mr Ali was approached to see if he had capacity to take more court / case proceedings. Mr Ali felt he could and agreed to do so if completed work could be removed to other colleagues.
39. The panel analysed Mr Ali's explanation that his duplications of records whenever it occurred was a product of poor workplace support and that he had asked about getting more support as he felt overwhelmed with his workload. The panel heard from AC and from SC and they stated as managers and head of service that they made sure there was always supervision available for members of their team. The panel found there is a real issue in the fact Mr Ali referred to deficient supervision. This was countered by AC who stated copious amounts of records were made in paper files and they would always talk through Mr Ali's caseload. SC said she had often overheard them in their open plan office and believed Mr Ali did receive regular supervision and support. However, when both AC and SC were questioned in relation to Mr Ali's supervision notes, the panel were advised that the notes were no longer in existence. As a result, the panel was unable to assess the impact of any lack of supervision including any sense of isolation Mr Ali may have experienced.

Deliberation on state of mind

40. The panel took into account Mr Ali agreed fact 3, if no record entry was made other social workers would have been made aware there was no entry. The panel asked Mr Ali what would happen if there was no entry, to which Mr Ali responded, "I would not know about that", but later accepted that management would have been alerted had there been no record made of a statutory visit. The panel saw this as Mr Ali not being straightforward as to his knowledge, at the time, as to the consequences of him creating no records of statutory visits.

41. The panel noted that Mr Ali stated that he began duplicating records as a significant change from his usual good practice which was to make notes during the visit and enter them on the Trust IT system promptly.
42. The panel questioned Mr Ali about his claimed change in his practice but could elicit no plausible explanation. Mr Ali told the panel that he “thought it was best that some entry was made rather than none”. Mr Ali told the panel that he had a “knot in his stomach”, as he was so busy and stressed. The panel noted that in relation to intention Mr Ali conceded that he made the entries because it was in his interest to do so and the panel find this as a fact.
43. The panel determined that Mr Ali was aware, when he made the entries that they were false and that he deliberately made false entries in order to evade detection from his management. The panel took into account that the duplicated entries applied to the whole of his caseload and persisted for some months. The panel found that the entries made by Mr Ali do not amount to an irrational momentary action.
44. The panel determined that Mr Ali was motivated by a desire to conceal the truth from his employer in order to avoid any potential disciplinary action. The panel concluded that Mr Ali’s conduct would be considered dishonest by the standards of ordinary decent people. The panel found as a fact that Mr Ali dishonestly falsified records by duplicating earlier record entries. The panel therefore found allegation 2 of the Allegation proved in its entirety.
45. The panel therefore finds both allegations proved in their entirety.

Finding and reasons on grounds and current impairment

Social Work England's Submission on Grounds

46. Mr Carey submitted that whether the facts found proved amount to misconduct is a matter of judgement for the adjudicators, rather than a matter of proof. Misconduct was defined by Lord Clyde in the case of *Roylance v General Medical Council (No 2)*¹ as “a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.” Lord Clyde went on to say that “[t]he 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.”
47. The misconduct puts the social worker in breach of HCPC Standards of Conduct, Performance and Ethics and HCPC Standards of Proficiency. The actions of the Social Worker mark a significant departure from professional standards.

HCPC Standards of Conduct, Performance and Ethics 2016

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.

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

10.1 You must keep full, clear, and accurate records for everyone you care for, treat, or provide other services to.

HCPC Standards of Proficiency 2017

Registrant social workers in England must:

1. be able to practise safely and effectively within their scope of practice

1.1 know the limits of their practice and when to seek advice or refer to another professional

1.2 recognise the need to manage their own workload and resources effectively and be able to practise accordingly

2. be able to practise within the legal and ethical boundaries of their profession

2.1 Understand current legislation applicable to social work with adults, children, young people and families

2.2 understand the need to promote the best interests of service users and carers at all times

2.3 understand the need to protect, safeguard, promote and prioritise the wellbeing of children, young people and vulnerable adults

3. be able to maintain fitness to practise

3.1 understand the need to maintain high standards of personal and professional conduct

10. be able to maintain records appropriately

10.1 be able to keep accurate, comprehensive and comprehensible records in accordance with applicable legislation, protocols and guidelines

10.2 recognise the need to manage records and all other information in accordance with applicable legislation, protocols and guidelines

48. Whilst there is no evidence to suggest that any children allocated to the Social Worker experienced actual harm, there is evidence to suggest that they were at an increase risk of harm as a result of the Social Worker's alleged actions. For example, a failure to record accurately allocated statutory visits during which a Social Worker would have had direct observation of the children allocated to them to obtain their wishes and feelings and assess any risk of harm.

49. The concerns relate to serious allegations that the Social Worker made inaccurate and/or poor-quality records of statutory visits by copying information from previous visits and, in doing so, made those recordings dishonestly. Such conduct breaches fundamental tenets of the profession. Whilst the issue of inaccurate records alone would be capable of being remediated, and there is no suggestion of the repetition of the concerns at the Social Worker's subsequent employers, the behaviour was repeated over a significant length of time and were not a one-off event. Dishonesty by its nature is generally considered an attitudinal flaw which can be difficult for a social worker to remediate and would be considered to be grievous by other members of the profession.
50. Conduct such as this would undermine the veracity of the subsequent reports which are relied upon by the courts and other professionals when making decisions on behalf of vulnerable service users. As Mr Cope set out in his evidence, *"The Social Worker was an experienced social worker and as a result he would know that at some point children may ask to access their individual records. So, if each visit recording is the same, there would be no reflection for the child of their journey or topics shared and discussed, demeaning the sharing of wishes and feelings for example."* Such conduct would also call into question the credibility of the reports, including whether some/all of the visits took place, as well as the credibility of the Social Worker, Birmingham City Council and the social work profession.

Social Work England's Submission on Impairment

51. Mr Carey submitted that whether the facts found proved result in impaired fitness to practise is ultimately a matter of judgement for the adjudicators.
52. There is a range of case law dealing with the proper approach to assessing current impairment. In the case of Cohen v General Medical Council, 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)." ² He went on to say that "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" ³.
53. In the case of Council for Healthcare Regulatory Excellence v Nursing and Midwifery Council, Paula Grant, Cox J considered that the appropriate test for panels considering impairment of a doctor's fitness to practise, which would be equally applicable to other regulatory schemes, was the test formulated by Dame Janet Smith in her Fifth Shipman Report, namely: -
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1. *“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.”*

54. The Social Worker has provided responses in which he appears to make some admissions to the extent that the records were made *“erroneously”* and later he accepts that some of the reports were falsified. It is noticeable that in his earlier submissions, the Social Worker focuses almost entirely on his own personal difficulties in terms of a lack of workplace support, large caseload and his personal circumstances. In his August submissions, though maintaining a focus on his personal difficulties, he also expresses his reflections on the impact his actions have on others and what he would do differently in future.

55. A significant reflection is the following statement:

2. *“I am deeply ashamed about the inaccuracies within my case recordings, as they are the only opportunity to understand what would have been happening for children at a young age, where, they may have been separated from their families and at an age where they could have few real memories of their circumstances”.*

56. On the subject of his personal difficulties, the Social Worker says *“this does not excuse poor case recording and I remain clear in that I take full responsibility for this.”*

57. In terms of what he would do differently, the Social Worker says *“[I] have adapted my practice to ensure that I do not make these errors again. An example of this is with home visits, I use headings to ensure that there is focus to my visit.”* He goes on to say that he *“should have stepped away from [his] role and had time off”* and that he is now much more aware of his own emotional health and has developed the ability to discuss this openly within supervision.

58. It would appear that the Social Worker has some recent insight for the potential consequences or risks created by his actions/omissions including the risk of harm to the service users in question and their families and/or carers.

59. It is significant that the actions were not isolated and involved multiple service users. It is asserted that this shows a worrying pattern of behaviour and it remains unclear from his records whether Mr Ali made all (or any) of the visits.
60. The Social Worker has provided limited evidence of remediation of the concerns with regard to the record keeping concern, save for the absence of complaints from his two subsequent employers. It is submitted that the Social Worker continues to neglect all due focus on the risk to vulnerable service users, instead in his reflections he focuses on the challenges he faced at the time with a lack of support and his caseload.
61. The Social Worker has continued practicing since the referral was made over four years ago and no further fitness to practise issues have arisen during this time. Furthermore, the Social Worker received an overall positive reference from Worcestershire County Council in 2019 and a positive reference from Gloucestershire County Council in 2021. However, the Social Worker's referee from Worcestershire County Council stated that the Social Worker *"would benefit from an employment contract so that he can continue to learn from the practice that we are embedding in Worcestershire"*.
62. Social Worker England submit that a finding of current impairment should be made. The Social Worker's conduct shows a significant departure from the Standards and could have placed vulnerable children at an increased risk of harm.
63. If a finding of dishonesty is made then a member of the public would be appalled that a Social Worker would act in such a way. It is submitted that the evidence suggests that the Social Worker does not respect the professional standards set out for social workers; this potentially presents a risk to the public as the Social Worker's conduct and the risk of repetition puts service users at risk and the Social Worker's conduct undermines public confidence in the profession. Social Work England therefore submit that the Social Worker's fitness to practise is currently impaired by reason of misconduct.
64. Mr Carey referred the panel to the leading cases of *Cohen v General Medical Council* [2008] EWHC581 (Admin) and *CHRE v NMC & Grant* [2011] EWHC 927 (Admin). Applying the principles in these authorities, he submitted that Mr Ali's fitness to practise was currently impaired and that a finding of impairment should be made on the grounds of public protection and public interest.

Ms Sheridan's Submission on Grounds

65. Ms Sheridan submitted that the issue of misconduct is for the panel to determine and invited the panel to consider this carefully and thoroughly as a finding of misconduct is serious and has the potential to cause reputational damage to the registrant.
66. Mr Carey has correctly outlined the test to determine misconduct as is outlined in the statement of case: specifically, is it an act or omission that falls short of what would be expected from the registrant in the circumstances. With regards to the first allegation, Mr Ali clearly accepts from the outset of the hearing that his case recordings

were not at the standard that would be expected as a social worker. It is for the panel to consider the circumstances element to the misconduct and whether or not the circumstances would have had an impact in terms of whether or not the actions amounted to misconduct.

67. Mr Ali did submit in terms of when the misconduct was occurring that he was struggling with his workload in terms of level of court work he was doing at the time. Also, on top of that we have not had any evidence of any formal supervision sessions that took place at the time in order to support Mr Ali and to discuss and prioritise his work. Mr Ali has been clear that he raised the fact he had been struggling. Ms Sheridan submitted that Mr Ali would not like to make excuses for his shortcomings in his practice in relation to his case notes, he just asks the panel to consider the circumstances when considering the misconduct element.
68. Ms Sheridan submitted in relation to the allegation of dishonesty, that Mr Ali is aware that any allegation of this nature is likely to result in a finding of misconduct being upheld. The panel must be clear that Mr Ali did not accept the allegation or the fact that he had any intention to be dishonest or to mislead.

Ms Sheridan's Submission on Impairment

69. Ms Sheridan highlighted that this is consideration of the current fitness to practise of Mr Ali. The main consideration the panel will need to pay attention to when determining current impairment is the level of insight and remediation Mr Ali has demonstrated since the issues that arose and any misconduct occurred. Insight and remediation are key indicators as to whether there is a risk of repetition.
70. Ms Sheridan referred the panel to the Social Work England guidance to fitness to practise which states that when deciding whether a social worker's fitness to work is impaired the adjudicators will consider whether the evidence available indicates there may still present a continual risk of harm to the public. In doing so the adjudicators will consider the nature and severity of the incidents in question and any actions taken since the events to address the concerns raised.
71. Ms Sheridan asked the panel to consider that according to the case of **Meadow v GMC 2006**, the purpose of fitness to practise hearings is to look forward taking into account past matters. The purpose of the regulatory body is to protect the public and not to punish the practitioner. This is echoed by Social Work England's guidance on fitness to practise which states, "our powers are not to punish social workers for mistakes". It states that isolated mistakes are unlikely be repeated if the social worker recognises what went wrong and takes action to prevent reoccurrence and that, in such circumstances, Social Work England will not find that the overall social worker's practise is impaired.
72. It is submitted relating this guidance and case law to Mr Ali's case that the case recordings in question occurred during an isolated period in his social work career. Whilst it is accepted that these were not isolated case records, this is a short period of time in an otherwise unblemished career.

73. Mr Ali has stated himself that he felt under pressure and stressed with his workload. It is clear Mr Ali's mindset was not what it should have been at this point and that his insight at the time on how this was impacting his work was clearly limited. Mr Ali began to realise that over his time at the council his workload was unsustainable and he was struggling with stress and burnout at the time which was having an impact on his work. Mr Ali made a decision to resign from his post as he did realise the situation was having an impact on his ability to practice to the standard he wanted to be practicing.
74. Ms Sheridan submitted that Mr Ali's resignation was the first event in his remediation journey. Upon resignation Mr Ali was made aware of allegations that his employer was bringing against him. Mr Ali accepts that for a period he was not responding to the allegations as fully as he could have done and did not accept accountability for his failings. He instead was focusing on what he saw as managerial failings. She submitted that Mr Ali never denied the allegations, never denied the case records were unacceptable, never denied copying and pasting the records and accepted responsibility from the outset.
75. Ms Sheridan reminded the panel that the allegations date back to late 2016 and early 2017. She submitted that Mr Ali had used the intervening period to reflect at length on what went wrong at the time, on what he should have done and on what he would do differently now.
76. In terms of highlighting the reflections there are a number of things that Ms Sheridan quoted on behalf of Mr Ali from his own submissions. At the hearing, the panel heard from Mr Ali in person that he feels "totally ashamed and embarrassed when he sees the case notes in question". Mr Ali accepted that he is responsible for his own practice and took full ownership for his actions. Mr Ali spoke about his understanding of the importance of accurate and detailed recordings of social work and he did reflect and has reflected on the potential impact his actions could have on the children his works with. Mr Ali also reflected on the impact in terms of the ability of professionals to have access to accurate information about the children and the impact that, in turn, could have on those children.
77. Mr Ali submitted in evidence that he recognised the impact of his behaviour on young people especially when they are separated from family at a young age and these records are the only understanding they have of that time. It presents upon reflection now that the social worker just did not care and, for that, Mr Ali is embarrassed and there has been a lot of learning and reflection from that over the last 6 years but especially having the opportunity to support a young person going through their access to records Mr Ali understood the impact that that had on them.
78. Ms Sheridan submitted that the final hearing statement of case at paragraphs 61 to 65 highlight the reflection that has been in Mr Ali's written statements. Mr Ali has reflected on the impact on others of his behaviour. He has talked about being deeply ashamed about the inaccuracies of his recordings. Mr Ali is very clear that he does not excuse poor case recording and that he takes full responsibility.

79. Ms Sheridan invited the panel to have regard to those sections of the statement of case when considering the fitness to practice element of the submission.
80. Ms Sheridan submitted that in his oral evidence Mr Ali did speak about the difference in his previous and subsequent roles when it came to supervision. He was clear that in subsequent posts he has benefitted from effective and constructive supervision and that he has approached these sessions in a very constructive way himself. There have been discussions in supervision sessions when Mr Ali has felt that he has been getting behind with his workload and then formulated a plan with his supervisor to enable him to manage his workload more effectively. Most importantly Mr Ali has been working as a social worker in children's services since these allegations arose and has received positive references from his managers. Ms Sheridan reminded the panel of the oral evidence of witness PJ, Mr Ali's current line manager, who stated that he found Mr Ali to be a competent and dedicated social worker.
81. Ms Sheridan submitted that, at present, Mr Ali is working as a social worker within Worcester children services in a front-line assessment team. There have been no previous concerns or any subsequent concerns raised about Mr Ali's practice. He has been able to demonstrate the remediation necessary by working as a front-line social worker, managing a case load effectively, completing accurate assessments and keeping his case records up to date and for this reason it is submitted that this is strong evidence of a very low risk of repetition.
82. Ms Sheridan submitted in relation to the dishonesty allegation that whilst Mr Ali did agree some facts in regards to this he did not admit any dishonest intentions in his actions. She highlighted relevant case law, in particular that it is wrong to equate maintenance of innocence with a lack of insight: a denial of misconduct is not an absolute bar to a lack of finding of insight.
83. Ms Sheridan submitted that she did not agree with Mr Carey's submission that Mr Ali's insistence that there was not a deliberate intent to deceive detracts from the insight, in any way. The submission would be to highlight that the fact that Mr Ali denied the dishonesty allegation in its entirety does not mean he lacks insight and he does have a right to deny the allegation. It is clear from the submission made by Mr Ali he can see why the records can be viewed as dishonest and why a member of the public would be concerned if they were to view these records.
84. Mr Ali has been clear that he regrets his actions and he does significantly regret the fact that his actions gave rise to his honesty and integrity being questioned. The panel does need to also note that Mr Ali has not faced any allegations as to his honesty and integrity prior to these proceedings or any of his subsequent social work roles.
85. With regard to the wider public interest, Ms Sheridan submitted that the panel will be aware that the decision on someone's fitness to practice being impaired can be made if it is necessary in the public interest. In cases where the social worker presents no risk to the public and has demonstrated sufficient insight and remediation the panel can still find impairment if they believe there is a need to uphold proper professional standards and that public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.

86. Ms Sheridan requested the panel to consider Mr Ali's previous unblemished career and considering whether the public interest element is met. Whilst Mr Ali accepts, he fell short of the standards expected of a social worker by producing the inadequate case records, he has demonstrated insight and remediation since the allegations occurred. These are allegations that date back to 2016 and 2017, now 6 years ago and the question here is would a reasonable member of the public be concerned if a social worker that had made errors six 6 years ago that has since worked as a social worker with no concerns raised be concerned if no finding of impairment made.
87. Ms Sheridan asked the panel to consider the effect of the passage of time when assessing current impairment and what this means in Mr Ali's case. Again, as a practitioner with no previous or subsequent concerns raised about his practice it can clearly be argued that these allegations occurred in a one-off time in Mr Ali's career and there were other particular circumstances that he asserted.
88. The big issue to consider here is that Mr Ali has reflected on his actions, learnt from his failings and has put methods in place to ensure he does not become overwhelmed like he did in this particular position he was in.
89. Ms Sheridan asked the panel to consider the points she has made as to whether Mr Ali's fitness to practise is currently impaired.
90. Ms Sheridan submitted that whilst Mr Ali's fitness to practise was likely to be impaired at the time of the allegations there is sufficient evidence to demonstrate that Mr Ali's fitness to practise is not currently impaired.

Legal Advice

91. The panel accepted the advice of the legal adviser that it must pursue the overarching objective – to protect the public – when exercising its functions. The panel must first consider whether the proven allegations amounted to the statutory ground of misconduct, and, if so, whether that leads to a finding of current impairment. Neither party bears the burden of proof. When considering impairment, the panel should consider whether the misconduct is remediable and, if so, whether it has been remedied and what insight has been demonstrated by Mr Ali. The panel must also determine whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of current impairment were not made.
92. The panel accepted and applied the following definition of "misconduct": "...some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a practitioner in the particular circumstances."
93. Whether the facts found proved amount to misconduct is a matter of judgement for the panel, rather than a matter of proof. Misconduct was defined by Lord Clyde in the case of *Roylance v General Medical Council (No 2)*⁴ as "*a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.*" Lord Clyde went on to say that "[t]he 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.”

94. The panel further noted that the adjective ‘serious’ must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioners.
95. The panel accepted the advice of the legal adviser in relation to current impairment. In the case of Cohen v General Medical Council, 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).”⁵ He went on to say that “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”⁶. In the case of Council for Healthcare Regulatory Excellence v Nursing and Midwifery Council, Paula Grant, Cox J considered that the appropriate test for panels considering impairment of a doctor’s fitness to practise, which would be equally applicable to other regulatory schemes, 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:

(a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or

(b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or

(c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or

(d) has in the past acted dishonestly and/or is liable to act dishonestly in the future.”

96. The panel also had regard to the following case law: _

In **Sawati v General Medical Council, 2022** WL 00413969 (2022), tThe appellate Court held the Tribunal entitled to find the doctor's attitude problematic. He appeared to be regarding the demonstration of insight as a box-ticking exercise. There was no sense he really recognised the seriousness of what he had been found to have done. The Court held the finding of lack of insight was “*a wholly unassailable finding of fact necessarily calling for the application of judgment to the impression given by the doctor at the*

review hearing". It accepted that *"the fact that he continues to deny impropriety makes it more difficult for him to demonstrate his insight"*. But it also cautioned that a Tribunal *"should not equate maintenance of innocence with lack of insight"*. It should not ignore the fact that the doctor continued to deny the inappropriate sexual nature of his conduct when weighing up his insight; but it should not regard it as determinative. Maintenance of innocence at a Tribunal should not automatically result in a finding of failure of insight: it is of potential relevance but its relevance should be properly considered.

Sayer v General Osteopathic Council [2021] EWHC 370 (Admin) at paragraph 25 as follows-

As regards the relationship between contesting the charges and insight, I have been referred to number of authorities: including Nicholas-Pillai v GMC [2009] EWHC 1048 (Admin) ; Amao v Nursing and Midwifery Council [2014] EWHC 147 (Admin) Motala v GMC [2017] EWHC 2923 (Admin) Yusuff v GMC [2018] EWHC 13 (Admin) ; GMC v Khetyar [2018] EWHC 813 (Admin) GMC v Awan [2020] EWHC 1553 (Admin) and Dhoorah v Nursing and Midwifery Council [2020] EWHC 3356 (Admin).
"From these, I draw the following principles:

(1) Insight is concerned with future risk of repetition. To this extent, it is to be distinguished from remorse for the past conduct.

(2) Denial of misconduct is not a reason to increase sanction: Awan §38.

(3) It is wrong to equate maintenance of innocence with lack of insight. Denial of misconduct is not an absolute bar to a finding of insight. Admitting misconduct is not a condition precedent to establishing that the registrant understands the gravity of the offending and is unlikely to repeat it: Motala and Awan

(4) However attitude to the underlying allegation is properly to be taken into account when weighing up insight: Motala Where the registrant continues to deny impropriety, that makes it more difficult for him to demonstrate insight. The underlying importance of insight and its relationship with denial of misconduct was usefully analysed by Andrew Baker J in Khetyar (at §49) as follows:

"Of course, no sanction was to be imposed on him for his denials as such; however, insight requires that motivations and triggers be identified and understood, and if that is possible at all without there first being an acceptance that what happened did happen it will be very rare, and any assessment of ongoing risk must play close attention to the doctor's current understanding of and attitude towards what he has done."

(5) The assessment of the extent of insight is a matter for the tribunal, weighing all the evidence and having heard the registrant. The Court should be slow to interfere: Motala.”

97. The fact that the panel must look to the future (but not speculate) was made plain in *Meadow v General Medical Council* in which it was said that: “... the purpose of FTP proceedings is not to punish the practitioner for past misdoings but to protect the public against the acts and omissions of those who are not fit to practise. The FTP thus looks forward not back. However, in order to form a view as to the fitness of a person to practise today, it is evident that it will have to take account of the way in which the person concerned has acted or failed to act in the past.”

Findings and reasons on grounds

98. The panel had regard to the oral and written submissions made by Mr Carey and Ms Sheridan, the evidence provided by Mr Ali, the evidence of the Social Work England witnesses and to the legal advice it received.
99. The panel recognised that the question of misconduct was a matter for its judgement in the light of the applicable standards. The panel also recognised that not every departure from those standards could properly be categorised as misconduct. A serious departure from generally accepted professional standards was required if a particular breach of standards was to be classified as misconduct.
100. The panel decided that the following standards were engaged by the factual findings it had reached.

HCPC Standards of Conduct, Performance and Ethics 2016

- 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.
- 9.1 You must make sure that your conduct justifies the public’s trust and confidence in you and your profession.
- 10.1 You must keep full, clear, and accurate records for everyone you care for, treat, or provide other services to.

HCPC Standards of Proficiency 2017

Registrant social workers in England must:

- 1. be able to practise safely and effectively within their scope of practice**

1.2. recognise the need to manage their own workload and resources effectively and be able to practise accordingly

2. *be able to practise within the legal and ethical boundaries of their profession*

2.1. understand current legislation applicable to social work with adults, children, young people and families

2.2. understand the need to promote the best interests of service users and carers at all times

2.3. understand the need to protect, safeguard, promote and prioritise the wellbeing of children, young people and vulnerable adults

3. *be able to maintain fitness to practise*

3.1. understand the need to maintain high standards of personal and professional conduct

10. *be able to maintain records appropriately*

10.1 be able to keep accurate, comprehensive and comprehensible records in accordance with applicable legislation, protocols and guidelines

10.2 recognise the need to manage records and all other information in accordance with applicable legislation, protocols and guidelines

101. The panel accepted there is no evidence to suggest that any children allocated to Mr Ali experienced actual harm. However, there was evidence that they were at an increased risk of harm as a result of Mr Ali's actions since the records of statutory visits could not be relied upon.
102. The Panel determined that Mr Ali made inaccurate recordings of statutory visits by copying information from previous visits and, in doing so, made those recordings dishonestly. The panel deemed such conduct to breach fundamental tenets of the profession.
103. The panel accepted the submission of Mr Carey that in view of the false records created by Mr Ali these particular incidents of dishonesty could not be regarded as isolated one off events.
104. The panel considered that whilst the issue of inaccurate records alone would be capable of being remediated, the falsification of records was repeated over a significant period and did not amount to an isolated incident. Dishonesty by its nature is largely considered as grave and difficult to remediate and would be considered to be serious by other members of the profession.
105. The panel was satisfied that Mr Ali's behaviour fell significantly below the standards to be expected of a registered social worker, that his actions were serious and that they amounted to misconduct.

Finding and reasons on current impairment

106. When considering the question of impairment, the panel took into account Social Work England's 'Impairment and sanctions guidance' updated 19 December 2022.
107. The legal adviser reminded the panel that its judgement in relation to impairment must be exercised at today's date and that, in addition to considering whether any misconduct was remediable and had been remedied, the panel was obliged to consider whether the wider public interest required a finding of impairment to be made.
108. The panel first considered whether the misconduct it had identified was, in principle, remediable. The dishonest aspects of Mr Ali's misconduct were attitudinal in nature and such misconduct was always more difficult to remedy than misconduct which resulted from some deficiency in professional skill. Nevertheless, the panel concluded that, in principle, the misconduct could be remedied although it would require persuasive evidence to show that it had, in fact, been remedied. The panel considered carefully Mr Ali's insight. Whilst it is clear that he understands and does have insight into why it is wrong to deliberately falsify records dishonestly and that it is completely unacceptable, the panel have looked for evidence that he understands why he chose to act dishonestly in falsifying these records. However, the panel is concerned that Mr Ali continues to avoid taking responsibility for his dishonest decision making, electing instead to focus on spurious external factors. As a consequence, in the panel's judgement, he has not demonstrated any understanding of why he acted dishonestly and has not identified things that he could do to ensure that he does not make dishonest decisions again when in difficulty. Taking all of these elements into account, the panel concluded that there remained a risk of repetition of Mr Ali's conduct and so found current impairment on the personal limb.
109. Whilst it is clear that Mr Ali has developed some strategies to make better use of supervision, the panel is not satisfied that this alone is sufficient to address adequately his persistent dishonesty. The panel therefore finds that Mr Ali's level of insight is far from complete and that he remains liable in the future to act dishonestly.
110. The panel went on to consider the wider public interest. The panel bore in mind that Mr Ali's misconduct dates back to 2016 and 2017 and that there is no other fitness to practise history. It also took into account that there has been no repetition since. It had regard to the guidance of Dame Janet Smith, endorsed in Grant. The panel decided that each of these four limbs were engaged in this case. Mr Ali had placed service users at unwarranted risk of harm. The panel considered that, although no harm was actually caused, Mr Ali's dishonest conduct at Allegations 1 and 2 had put all the children on his caseload at risk of harm. They were all vulnerable Service Users who required statutory visits. The panel found that through his misconduct, he brought the profession into disrepute and breached a number of fundamental tenets of the profession; in particular he placed his own interests before the interests of service users. The panel considered honesty to be a key component in Social Work practice. In view of Mr Ali's dishonesty and lack of insight the panel found that there is a risk of him repeating his dishonest

behaviour. The panel finds that a finding of impairment is necessary in order to protect the public.

111. Furthermore, Mr Ali's conduct marks a significant breach of the HCPC standards of conduct, performance and ethics. It is imperative Social Workers can be trusted due to their position of responsibility. Acts of dishonesty are serious because they significantly undermine public confidence in the profession. The panel considered that a fully informed, ordinary member of the public would be shocked by Mr Ali's conduct because the public rightly expects social workers to be honest and trustworthy. As such, the panel found that a finding of impairment was required in order to uphold proper professional standards and to maintain confidence in the profession of social work and the system of regulation. The panel therefore also found current impairment on the public interest limb.

Sanction

Mr Carey's Submission on Sanction

112. Mr Carey, on behalf of Social Work England, submitted that, considering the nature of the misconduct, the appropriate sanction was a removal order. He argued that such a sanction would adequately protect the public and the wider public interest, considering the severity of the misconduct.
113. Mr Carey reminded the panel of its conclusions as to remediation, insight, and risk of repetition.
114. Mr Carey submitted that the panel should have regard to the aggravating features in the case namely that there were clear failings of the basic fundamental tenets of the profession. He submitted that Mr Ali was an experienced social worker who had put vulnerable service users at risk of harm.
115. Mr Carey submitted that the allegations found proved by the panel seriously call into question Mr Ali's trustworthiness. He further argued insight is not fully formed in that Mr Ali has not acknowledged or demonstrated insight into his dishonesty.
116. Mr Carey submitted that the behaviour occurred over a period of time and was repeated. Mr Carey reminded the panel of its findings in relation to dishonesty and that this was the main issue of concern. The panel have found the level of duplication within the records renders them severely deficient and misleading, as they set out a false picture of the children on these purported visits. The nature and content of the records showed systemic misrepresentation.
117. Mr Carey submitted that to take no action would be insufficient and that advice or a warning would be insufficient given the findings made by the panel. He further argued that a conditions of practice order would be unlikely to be appropriate or workable. Mr Carey further submitted given the panel's findings a suspension order would be inadequate to maintain confidence in the profession and to maintain proper professional standards for social workers in England.

118. Mr Carey argued that a removal order was the only appropriate outcome and that a suspension order would not be appropriate, on the basis that this was not a case which fell short of removal. Mr Carey submitted that Mr Ali's lack of insight and remediation meant the appropriate sanction was a removal order.

Ms Sheridan's Submissions on Sanction

119. Ms Sheridan referred the panel to Social Work England's Impairment and Sanctions Guidance. This guidance refers to proportionate sanctions. It states that a sanction must be the minimum necessary to protect the public and the wider public interest. The purpose of sanctions is not to punish the social worker, but to protect the public. Ms Sheridan invited the panel to consider the least restrictive sanction necessary to protect the public and the wider public interest.
120. Ms Sheridan submitted that in cases where dishonesty has been found proven, there has been a 'degrees of dishonesty' test that has been identified in the case of *Sawati v GMC* (2022) EWHC 283 (Admin), which should be applied when considering sanction in dishonesty cases. This test refers to a differentiation between primary dishonesty cases and secondary dishonesty cases. The test also clarifies the fair approach that should be taken when a registrant denies an allegation of dishonesty.
121. Ms Sheridan submitted the *Sawati* case highlighted that regulators are apt to forget that dishonesty is not a single, unvarying form of misconduct but rather encompasses a range of seriousness. The court drew a distinction between dishonesty as a primary or a secondary allegation.
122. A primary allegation refers to conduct which is intrinsically dishonest, like fraud or forgery. A secondary allegation, by contrast, means conduct (record keeping, for example) which is capable of being performed honestly or dishonestly. The judge considered a rejected defence of honesty may be more fairly relevant to an overall assessment of conduct where dishonesty was the primary allegation – deceit, fraud, forgery or similar – than where "dishonestly" was a secondary allegation, aggravating a primary allegation of other misconduct which may or may not be done honestly.
123. Ms Sheridan submitted that applying the test in the *Sawati* case to Mr Ali's case, the primary allegation that Mr Ali faced was that he completed inaccurate case recordings. Mr Ali has fully admitted this allegation. What he has not fully admitted is the secondary allegation, which is the fact that his behaviour when completing these allegations was dishonest. Mr Ali was entitled to deny an allegation and did so. Ms Sheridan submitted that the fact Mr Ali has denied the dishonesty allegation does not mean that he is not remorseful for his actions. He has demonstrated remorse and apologised for his actions. It is accepted that Mr Ali has not offered a direct apology for dishonesty as he denied it – however, Mr Ali does have the right to deny an allegation and should not be found to be lacking in insight because he chose to do so. Mr Ali is sorry for the failings in his practice and has repeatedly outlined how sorry he is.
124. Ms Sheridan reminded the panel that a rejected defence of honesty is more relevant as a potential aggravating feature where the case concerns a primary allegation of dishonesty,

and the panel should therefore have this in their minds when they are considering the sanction that they intend to impose for Mr Ali's dishonesty.

125. Ms Sheridan argued that it is important to highlight that, whilst it is clear that Mr Ali denied the secondary allegation of dishonesty, as was his right, he has not sought to minimise his conduct in any way and has demonstrated huge remorse that his actions could have been considered dishonest. Ms Sheridan submitted that Mr Ali had spoken at length about his sincere regret for his actions and he takes full responsibility for his actions. In his written submissions, Mr Ali did not dispute that his actions would have put service users at risk and he outlined clearly what these risks were both in terms of the impact on children, other professionals working with the children and the impact on the reputation of the profession. Mr Ali fully accepts that his actions at the time were in breach of the HCPC standards of conduct, performance and ethics and understands that the choices he made during this time in his career would have breached the public's trust in the profession.
126. Ms Sheridan submitted that prior to these allegations, there had been no concerns raised in relation to Mr Ali's fitness to practise. The panel need to consider the fact that the allegations in question date back to conduct that took place in 2016. Mr Ali has practised as a social worker without any concerns being raised about his practise since these allegations arose until he was made subject to an interim suspension order in March of this year following the finding of dishonesty by the panel. Mr Ali has been able to offer positive references from managers that he has worked for in this time, one of whom was willing to attend the hearing and give testimony as to Mr Ali's conduct and practice. It is of note that Mr Ali's employment has been locum social work and managers have kept him in the roles for a significant period of time, despite him being a temporary employee. This is clear evidence of the fact that there are no current concerns about Mr Ali's fitness to practise as a social worker.
127. Ms Sheridan further submitted that in addition to the remediation demonstrated by his social work practise, Mr Ali has spent extensive time reflecting on his actions and the impact on service users. He has ensured that he has developed techniques for managing challenging circumstances, such as taking time out and ensuring that he has regular supervision sessions where he talks openly about any difficulties he may be having. It should also be noted that Mr Ali has fully engaged with this extremely lengthy regulatory process throughout and has continued to access CPD which includes training on safeguarding and record keeping.
128. Ms Sheridan submitted that it is not disputed at all that a finding of dishonesty is serious. What is disputed is the fact that a removal order would be required in a case where a social worker has been found dishonest based on an isolated period of time in his practice 6 years ago, particularly when he has demonstrated that he is a safe and effective practitioner since this date. Ms Sheridan argued that had such an order been imposed at the time or soon after the event, this would of course have served the purpose of maintaining public confidence in the profession. However, to impose such an order 6 years down the line would not have this effect. Ms Sheridan submitted that the panel has

other sanctions available to them that would meet the regulator's objectives of protecting the public and maintaining public confidence in the profession.

129. Ms Sheridan invited the panel to take into account the fact that the purpose of proceedings is not to punish the social worker, and urged the panel to consider issuing the lowest sanction possible in Mr Ali's case. She submitted that Mr Ali is fully aware that the panel will consider the public interest element when determining which sanction to impose and accepts that if the public were made aware of his misconduct, they would want to be reassured that this behaviour would not be repeated.
130. Ms Sheridan submitted that a warning order is likely to be appropriate where the fitness to practise issue is isolated or limited, there is a low risk of repetition and the social worker has demonstrated insight. In Mr Ali's case, the misconduct occurred for a period of approximately 3 months in an otherwise unblemished social work career. Whilst Mr Ali completely accepts that the misconduct was not isolated and does not seek to minimise his conduct in any way, it is clear that it occurred in a short period in an otherwise unblemished career. He has demonstrated through his practice since that the risk of repetition is extremely low and has demonstrated clear insight and remediation. It is submitted that a warning order would be the proportionate sanction in this case as it would offer an appropriate sanction to Mr Ali whilst also serving the purpose of maintaining public trust in the profession. Ms Sheridan submits that it is in the public interest for Mr Ali to continue to practise as a social worker as he has demonstrated that he is a safe and effective practitioner for the past 6 years. Ms Sheridan invites the panel to consider the fact that these proceedings have had the punitive effect of putting Mr Ali's career on hold, as he has felt unable to apply for career progression opportunities whilst the process was ongoing and has also been subject to an interim suspension order since March. It is submitted that a warning order be issued for a minimal period of time in order to ensure that it does not have the effect of acting as a 'punishment'.
131. Ms Sheridan referred the panel to the social work England sanctions guidance stating that conditions of practice order is less likely to be appropriate in cases where there has been impairment found due to dishonesty. Ms Sheridan invited the panel to consider a conditions of practice order in Mr Ali's case as the guidance does also state that an order is appropriate where the misconduct is capable of being remedied. She reminded the panel that they have identified that Mr Ali's conduct is capable of being remedied and therefore think it would be appropriate to consider a conditions of practice order as a sanction. Ms Sheridan suggested that the panel consider conditions that would require Mr Ali to carry out relevant CPD, such as condition 58, which would require Mr Ali to reflect on the professional standards, focus on his conduct and how the conduct fell below the required standards. Condition 59 also offers the panel the option to require Mr Ali to carry out a specified number of hours of CPD in relation to a specific area. Ms Sheridan submitted that if Mr Ali were able to continue practising as a social worker whilst completing the required reflections and CPD, he would be better able to demonstrate full remediation.

132. Ms Sheridan submitted that the panel may consider the imposition a suspension order. The sanctions guidance states that suspension may be appropriate where the concerns represent a serious breach of the professional standards, the social worker has demonstrated some insight and there is evidence to suggest the social worker is willing and able to resolve or remediate their failings. Whilst it is accepted that the allegations represent a serious departure from the professional standards, it is clear that Mr Ali has demonstrated more than 'some' insight and that he has taken action to remediate his failings. He is clearly committed to remediation. Ms Sheridan submitted that, if the panel were minded to consider preventing Mr Ali from practising, this sanction would be a far more appropriate and proportionate sanction than a removal order. It is also submitted that if the panel do conclude that a suspension order is necessary, this is issued for the minimum period possible and consideration is made to the period of time that Mr Ali has already been suspended.
133. Ms Sheridan submitted that the evidence of insight and remediation demonstrates that the risk of repetition in Mr Ali's case is low and asked the panel to consider issuing no sanction. Having said this, she further submits that the panel may wish to issue a sanction in order to send a clear message in terms of public interest and for this reason, asks the panel to consider that a warning order in Mr Ali's case would be proportionate.

Determination and reasons–sanction:

134. The panel accepted the advice of the legal adviser, that it must again pursue the overarching objective when exercising its functions. The panel must apply the principle of proportionality, balancing Mr Ali's interests with the public interest. The purpose of a sanction is not to be punitive, although a sanction imposed may have a punitive effect.
135. The panel considered the least restrictive sanction first and then moved up the sanctions scale until it reached the sanction that was proportionate and appropriate. The panel had regard to the Social Work England 'Impairment and sanctions guidance', published on 19 December 2022, together with its determination of grounds and impairment.
136. The panel considered the case of *Sawati v GMC* (2022) EWHC 283 (Admin). Whilst the panel has taken into account that the allegation is not primarily one of fraud, nonetheless at the heart of this case are false records made dishonestly with a clear motivation to evade management scrutiny of his practice in relation to statutory visits to vulnerable children. In the panel's assessment the fraud perpetrated by Mr Ali is closely akin to a primary fraudulent act. In assessing Mr Ali's insight into his misconduct, the panel has taken into account that throughout these proceedings Mr Ali has sought to deflect responsibility onto external factors including: his line managers for inadequate supervision, whereas the panel found otherwise; an increase in caseload, when his caseload only increased after his dishonesty occurred; and serious personal circumstances that did not occur until many months after his dishonest acts. In all the circumstances the panel concluded that Mr Ali's insight into his misconduct is limited.

137. The panel first considered the aggravating features of this case. The panel identified the following aggravating features:
- a. Mr Ali's misconduct was not isolated; it occurred over a number of months and across his caseload.
 - b. Mr Ali's dishonesty was in the context of statutory duties to ensure the safe placement of children.
 - c. Mr Ali's actions placed service users who were particularly vulnerable at risk of harm.
 - d. The level of duplication within the records rendered them severely deficient and misleading, such that they could not be relied upon at all.
 - e. Mr Ali's motivation was to avoid management scrutiny of his duties in conducting and recording statutory visits.
138. The panel identified the following mitigating factors:
- a. Mr Ali appreciates that dishonest record keeping is wholly unacceptable.
 - b. Mr Ali continued to practice as a social worker following the misconduct without further repetition.
 - c. Mr Ali made some admissions at an early stage and has taken some limited responsibility for his failings.
 - d. Mr Ali has provided a positive testimonial from his most recent line manager.
 - e. Mr Ali does not have any prior regulatory findings.
139. The panel considered that taking no action, or issuing advice or making a warning order, would not adequately reflect the serious nature of Mr Ali's misconduct. These outcomes would not adequately protect the public, as they would not restrict Mr Ali's practice.
140. The panel has assessed there to be a risk of repetition, and so considered that the public could not currently be adequately protected unless Mr Ali's practice is restricted. Further, taking no action, or issuing advice or a warning, would not maintain public confidence in the profession or promote proper professional standards, considering the panel's finding that Mr Ali acted dishonestly and his failings exposed vulnerable service users to a risk of harm.
141. The panel next considered whether a conditions of practice order would be sufficient to protect the public and wider public interest. The panel considered that this was not the type of case in which conditions of practice would be suitable given the panel's findings in respect of insight and remediation and dishonesty.

The panel reminded itself of the following paragraphs of the Impairment and Sanctions Guidance in respect of conditions of practice;

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*

116. *When considering public protection, decision makers must fully assess insight and the social workers past engagement with the regulator and any employer. This should help to determine whether the social worker can comply with conditions of practice.*

119. *For example, conditions are unlikely to be appropriate in cases of (any of the following):*

- *sexual misconduct*
- *violence*
- *dishonesty*
- *abuses of trust*
- *discrimination involving a protected characteristic*

142. The panel noted its findings in relation to insight and determined that it could not be confident that Mr Ali could comply with the conditions. The panel was satisfied that workable conditions could not be formulated to adequately protect the public. Further, when considering the aggravating factors, the panel was satisfied that conditions would not be sufficient to maintain public confidence, or to promote proper professional standards.

143. The panel next considered a suspension order. The imposition of a suspension order would give an opportunity to Mr Ali to reflect and remediate.

144. The panel noted paragraph 138 of the Impairment and Sanctions Guidance, which reads as follows;

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

- *the social worker has not demonstrated any insight and remediation*

The panel noted the following paragraph of the Impairment and Sanctions Guidance;

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):*

- *dishonesty, especially where persistent and/or concealed (see section ‘dishonesty’) ...*
- *persistent lack of insight into the seriousness of their actions or consequences*

145. The panel considered that the imposition of a suspension order would not be appropriate or proportionate in this case and that this sanction would be inadequate to maintain confidence in the profession and to maintain proper professional standards for social workers in England.

146. The panel took into account that the disciplinary proceedings had already hung over Mr Ali for a number of years and that whilst subject to the fitness to practise proceedings Mr Ali had not been able to progress his career. Mr Ali’s dishonest misconduct was serious, and he has shown limited insight for his actions.

Removal Order

147. The panel, having concluded that a suspension order would not protect the public nor meet the wider public interest, decided that the only proportionate order was a removal order.

148. The panel took into account the Impairment and Sanctions Guidance which states that “a removal order must be made where the adjudicators conclude that no other outcome would be enough to protect the public, maintain confidence in the profession or maintain proper professional standards for social workers in England.”

149. The panel also noted that a removal order may be appropriate in cases involving dishonesty, a persistent lack of insight into the seriousness of a social worker’s actions or consequences.

150. 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 Ali’s case falls into this category because of the nature and gravity of his misconduct and the ongoing risk of repetition identified by the panel.

151. The panel concluded that Mr Ali’s current impairment requires that he should be removed from the register to protect the public from harm. The panel was satisfied that any lesser sanction would undermine public trust and confidence in the profession and would be wholly insufficient to maintain professional standards.

152. In reaching this conclusion the panel balanced the public interest against Mr Ali’s interests. The panel took into account the consequential personal and professional impact a removal order may have upon Mr Ali and the wider public interest in retaining social

workers but these considerations were significantly outweighed by the need to protect the public and wider public interest.

Interim order:

153. In light of its findings on sanction, the panel next considered an application by Mr Carey for an interim suspension order to cover the appeal period before the final order becomes effective. An interim order would be necessary in accordance with Schedule 2, paragraph 11 (b) of the Social Workers Regulations 2018 to cover the appeal period. Mr Carey submitted that an interim order was necessary to protect the public in light of the findings made by the panel.
154. The panel heard and accepted the advice of the legal adviser with regard to the imposition of an interim order. The test is that it is necessary for the protection of the public and/or in the best interests of the social worker.
155. The panel considered whether to impose an interim order. It was mindful of its earlier findings and the risk of repetition and decided that it would be wholly incompatible with those earlier findings to permit Mr Ali to practise during the appeal period.
156. Accordingly, the panel concluded that an interim suspension order of 18 months 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.
157. The panel revoked any interim suspension order that had been put in place in preparation for this hearing.

Right of Appeal

1. Under paragraph 16 (1) (a) of schedule 2, part 5 of the Social Workers Regulations 2018, the Social worker may appeal to the High Court against 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. Under paragraph 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 paragraph 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.