

Social worker: Elizabeth R Franklin

Registration number: SW10308

Fitness to Practise

Final Order Review Meeting

Date of meeting: 31 May 2023

Meeting venue: Remote meeting

Final order being reviewed:

Conditions of practice order – (expiring 13 July 2023)

Hearing Outcome: Removal order with effect from 13 July 2023

Introduction and attendees:

1. This is the first review of a final conditions of practice order originally imposed for a period of 18 months by a panel of adjudicators on 17 December 2021.
2. Ms Franklin did not attend and was not represented.
3. Social Work England was represented by Capsticks LLP and their written submissions are set out within the notice of hearing letter.

Adjudicators	Role
Kerry McKevitt	Chair
Julie Brown	Social worker adjudicator

Hearings team/Legal adviser	Role
Debra Renwick	Hearings officer
Wallis Crump	Hearings support officer
Helen Gower	Legal adviser

Service of notice:

4. The panel of adjudicators had careful regard to the documents contained in the final order review service bundle as follows:
 - A copy of the notice of the final hearing dated 20 April 2023 and addressed to Ms Franklin at her e-mail address which she provided to Social Work England;
 - An extract from the Social Work England Register as at 20 April 2023 detailing Ms Franklin's registered e-mail address;
 - A copy of a signed statement of service, on behalf of Social Work England, confirming that on 20 April the writer sent the Notice of Hearing and related documents to Ms Franklin by e-mail to the address referred to above.
5. The panel accepted the advice of the legal adviser in relation to service of notice.
6. Having had regard to 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 Ms Franklin in accordance with Rules Social Work England (Fitness to Practise) Rules 2019 (as amended) (the "Rules").

Proceeding with the final order review as a meeting:

7. The notice of final order review informed Ms Franklin that the review would take place as a meeting. The notice stated:

“If you would like to attend before the adjudicators in order to make oral submissions, please confirm your intention by no later than 4pm on 4 May 2023. Unless we hear from you to the contrary, we shall assume that you do not want to attend a hearing and Social Work England may decide to deal with the review as a meeting. If Social Work England do hold a meeting, the adjudicators will be provided with a copy of this letter setting out Social Work England’s submissions and a copy of any written submissions you provide.”

8. The panel took into account an e-mail from Ms Franklin dated 4 May 2023 stating that she would not be attending the review and that she had no evidence to provide.
9. The panel accepted the advice of the legal adviser in relation to the factors it should take into account when considering whether it was appropriate to proceed with the review in Ms Franklin’s absence. This included reference to Rule 43 of the Rules and the cases of *R v Jones [2003] UKPC*; *General Medical Council v Adeogba [2016] EWCA Civ 162*. The panel also took into account Social Work England guidance ‘Service of notices and proceeding in the absence of the social worker’.

10. The panel also accepted the advice of the legal adviser with regard to Rule 16(c) of the Fitness to Practise Rules 2019 (as amended) which provides:

“Where the registered social worker does not state within the period specified by the regulator whether they intend to attend before the regulator, the regulator may determine whether to make an order by means of a meeting.”

11. The panel was satisfied that Ms Franklin is aware of the review of the conditions of practice order and that she has waived her right to attend a hearing. It was apparent to the panel from Ms Franklin’s e-mail dated 4 May 2023 that she is not requesting an adjournment and that an adjournment would serve no purpose. The panel considered that it was in the public interest for the review to be conducted expeditiously. In all the circumstances the panel was satisfied that it would be fair and appropriate to conduct the review in Ms Franklin’s absence and in the form of a meeting in accordance with Rule 16(c).

Review of the current order:

12. This final order review hearing is taking place under Paragraph 15(1) of Schedule 2 of The Social Workers Regulations 2018 (as amended) and Social Work England’s Fitness to Practise Rules 2019 (as amended).
13. The current order is due to expire on 13 July 2023.

The allegations found proved which resulted in the imposition of the final order were as follows:

During the course of your employment as an Experienced Social Worker at Somerset Council ("the Council"):

- 1. Between around 10 and 16 March 2016, you failed to take appropriate action in relation to a referral concerning Child A and/or failed to safeguard Child A adequately in that you did not progress the assessment in a timely manner.*
- 2. Between around 14 and 16 March 2016, you failed to take appropriate action and/or failed to safeguard Child B adequately following concerns reported by Child B's mother in that you did not:*
 - a. inform a manager of the concerns;*
 - b. progress the assessment in a timely manner;*
 - c. escalate the case to a strategy discussion.*
- 3. On or about 20 September 2016, you failed to take appropriate action and/or failed to safeguard Child C adequately following concerns reported by Child C's school, in that you:*
 - a. did not speak to the school directly and/or relayed inappropriate advice to the school in respect of follow up;*
 - b. did not ensure that an appropriate adult was at home when Child C returned from school;*
 - c. did not follow up on the outcome of the welfare visit until 22 September 2016.*
- 4. On or about 21 September 2016, you failed to take appropriate action and/or failed to safeguard Child D adequately following concerns raised by Child D's grandmother, in that you:*
 - a. did not speak to Child D's father in order to obtain consent for Child D to be spoken to at school that day and/or to be checked for bruising, until after the school day had ended;*
 - b. [not proved]*
- 5. On or about 23 September 2016, you failed to take appropriate action and/or failed to safeguard Child E adequately in that, after being informed by Child E's school that she had disclosed ongoing physical and/ or verbal abuse by her stepfather you:*
 - a. did not speak to Child E about what she had disclosed;*
 - b. did not speak with Child E's mother;*
 - c. accepted the account that Child E's step-father had given to the school without further investigation;*
 - d. recommended that no further action was taken on the basis that the school had spoken to Child E's step-father.*

- e. did not identify and/or put in place any safety measures for Child E.*
- 6. Between around 7 and 13 October 2016, after Child Y had disclosed that they had been physically and/ or emotionally harmed, you failed to take appropriate action and/or failed to safeguard Child Y adequately in that you:*
 - a. failed to speak to Child Y's parents and/or any agencies involved with the family;*
 - b. failed to put any or any adequate safety or support plan in place;*
 - c. recommended that an assessment was not required;*
 - d. inappropriately placed Child Y at level 2.*
- 7. Between around 13 and 18 October 2016 you failed to take appropriate action and/or failed to safeguard Child X adequately in that following concerns that Child X had been physically abused and/or had sustained injury you did not ask a professional to speak with Child X until prompted to do so by a manager.*
- 8. Between around 27 and 31 July 2017, you failed to take appropriate action and/or failed to safeguard Child F adequately following a police referral, in that you:*
 - a. did not correctly apply the threshold for assessment and/or recommended that an assessment was not required;*
 - b. inappropriately placed Child F at level 2;*
 - c. [not proved]*
- 9. Between approximately 1 and 2 August 2017, you failed to take appropriate action and/or failed to safeguard Child Z adequately in that, when you were informed that Child Z's GP had reported unexplained bruising to a call advisor, you:*
 - a. did not speak to the GP directly and/or ask supplementary questions of the GP;*
 - b. did not ask any, or any appropriate, supplementary questions of the call advisor;*
 - c. did not progress a safeguarding referral and/or a strategy discussion;*
 - d. did not ensure there was an appropriate safety plan in place for Child Z;*
 - e. did not report the information to a manager and/or seek advice or input from them;*
 - f. gave incorrect and/or inadequate information to the call advisor to relay to the GP;*
 - g. When asked for further guidance by the call advisor, provided incorrect advice by stating that a GP can refer to hospital without seeking advice from CSC, or words to that effect, which is not the case when the concern is in relation to a safeguarding matter.*
- 10. The matters set out in Paragraphs 1 – 9 constitute misconduct and / or [ground not found].*

By reason of your misconduct and / or [ground not found], your fitness to practise is impaired

The final hearing panel on 17 December 2021 determined the following with regard to impairment:

“The panel considered that the misconduct was remediable, that Ms Franklin had reflected on the misconduct and had developed a measure of insight into what had gone wrong. [PRIVATE] However, the panel noted that Ms Franklin had not practised since 2017 and there was no evidence before it to demonstrate improved practice in those aspects of her practice which required improvement. Accordingly, the panel found that there was still a risk that she could place service users at unwarranted risk of harm. A finding of impairment was therefore required on grounds of public protection.

The panel also concluded that a reasonable and fully informed member of the public would be disturbed to learn that the failures evident in the nine cases which the panel had considered had not resulted in a finding of impaired fitness to practise. The panel considered that the public interest required a finding of impairment so as to maintain the reputation of the profession.”

The final hearing panel on 17 December determined the following with regard to sanction:

“The mitigating factors were that Ms Franklin had had a long career which, until her promotion to a new role at the end of 2015, had been without blemish. She had engaged constructively throughout these proceedings and had developed better insight both into the cases which the panel had had to consider [PRIVATE:].

The panel recognised that it had found there to be an ongoing risk to the public in this case. In those circumstances it was inappropriate to take no further action or to issue a warning. Neither of these courses would restrict Ms Franklin’s practice in any way and the panel had found that there were deficiencies in her practice which could be remedied.

The panel went on to consider a conditions of practice order. The panel considered that a conditions of practice order was a proportionate outcome to this case as there were definable improvements in practice that could be made. The panel considered that Ms Franklin would respond positively to such an order if there came a time when she decided she wished to return to the profession. As previously noted, she had engaged constructively throughout these proceedings. The panel recognised that she had said that she did not wish to return to the profession but such intentions were changeable and the panel noted that she had previously applied for a social work position.

The panel went on to consider whether a suspension order would be appropriate. The panel decided that it would not. It was satisfied that Ms Franklin had reflected on these cases and it was also satisfied that if she decided to return to practice a conditions of practice order

would be sufficient to protect the public. In these circumstances no useful purpose would be served by a suspension order.

The panel decided that the conditions set out below should be placed on Ms Franklin's registration for a period of 18 months which would allow sufficient time to enable these conditions to be effective if Ms Franklin should decide to change her present intentions. They would be reviewed before the end of that period and a reviewing panel would find of assistance any information which Ms Franklin could provide in relation to

- Testimonials she had received
- CPD undertaken
- **[PRIVATE:]**

The panel concluded that the following conditions should be placed upon Ms Franklin's registration.

1. You must notify Social Work England within 7 days of any professional appointment you accept or are currently undertaking and provide the contact details of your employer, agency or any organisation with which you have a contract or arrangement to provide social work services, whether paid or voluntary.
2. You must allow Social Work England to exchange information with your employer, agency or any organisation with which you have a contract or arrangement to provide social work or educational services, and any reporter or workplace supervisor referred to in these conditions.
3. a) At any time you are providing social work services, which require you to be registered with Social Work England, you must agree to the appointment of a reporter nominated by your line manager and approved by Social Work England. The reporter must be on Social Work England's register.
- 3.b) You must not start/restart work until these arrangements have been approved by Social Work England.
4. You must provide a report from your reporter to Social Work England every 6 months and at least 14 days prior to any review and Social Work England will make these reports available to any workplace supervisor referred to in these conditions on request.
5. You must inform Social Work England within 7 days of receiving notice of any formal disciplinary proceedings taken against you from the date these conditions take effect.
6. You must inform Social Work England within 7 days of receiving notice of any investigations or complaints made against you from the date these conditions take effect.
7. You must inform Social Work England if you apply for social work employment / self-employment (paid or voluntary) outside England within 7 days of the date of application.
8. You must inform Social Work England if you are registered or subsequently apply for registration with any other UK regulator, overseas regulator or relevant authority within 7

days of the date of application [for future registration] or 7 days from the date these conditions take effect [for existing registration].

9. a) At any time you are employed, or providing social work services, which require you to be registered with Social Work England; you must place yourself and remain under the close supervision of a workplace supervisor nominated by your line manager and agreed by Social Work England. The workplace supervisor must be on Social Work England 's register.

9.b) You must not start/restart work until these arrangements have been approved by Social Work England.

10. You must work with your workplace supervisor to formulate a personal development plan, specifically designed to address the shortfalls in the following areas of your practice:

- Recognising and assessing risk;*
- Taking action to safeguard and protect vulnerable individuals.*

11. You must provide a copy of your personal development plan to Social Work England within 4 weeks from the date these conditions take effect and an updated copy 2 weeks prior to any review.

12. You must provide a written copy of your conditions, within 7 days from the date these conditions take effect, to the following parties confirming that your registration is subject to the conditions listed at 1-11 above:

- Any organisation or person employing or contracting with you to undertake social work services whether paid or voluntary*
- Any locum, agency or out of hours service you are registered with in order to secure employment or contracts to undertake social work services, whether paid or voluntary (at the time of application).*
- Any prospective employer who would be employing or contracting with you to undertake social work services whether paid or voluntary (at the time of application)*
- Any organisation, agency or employer where you are using your social work qualification/knowledge/skills in a non-qualified social work role, whether paid or voluntary.*

13. You must permit Social Work England to disclose the above conditions, 1-12, to any person requesting information about your registration status."

Social Work England submissions:

14. The submissions prepared by Capsticks on behalf of Social Work England were set out in the Notice of Hearing letter dated 20 April 2023:

“Subject to receipt of any evidence of engagement or remediation prior to the review Social Work England invite the Panel to replace the Conditions of Practice Order with a Suspension Order for 6 months. The Social Worker has not provided any evidence of remediation or further insight, or evidence she has kept her knowledge and skills up to date. As the Social Worker has not engaged with the case review team it is submitted that conditions of practice are no longer sufficient or workable.

At the time of the final hearing the Social Worker had not worked as a social worker since 2017 and had indicated she had no desire to return to social work, although she did attend and engage with the hearing process. There is no evidence of remediation and the risks remain as they did at the time of the final hearing. The Panel are therefore invited to find that the Social Worker’s fitness to practise remains impaired.

Social Work England submit that although the option of a Removal Order is available to the Panel on review, given the previous engagement of the Social Worker, this is premature and that the Social Worker ought to be afforded a final opportunity to engage and confirm if she wishes to return to social work practice. If the Social Worker does not engage further before the next review then Social Work England may at that stage seek removal from the register.

If the Panel decide to impose a further Order, Social Work England invite the Panel to confirm what steps the Social Worker could take prior to the next review which will help any subsequent Panel. Social Work England suggest evidence of the Social Worker’s engagement with Social Work England, evidence of any CPD undertaken, a reflective piece and/or testimonials from their employer(s).”

Social worker submissions:

15. There were no submissions by or on behalf of Ms Franklin. She stated in her e-mail dated 4 May 2023 that she had no evidence to provide as she has not practised as a social worker since September 2017.

Panel decision and reasons on current impairment:

16. 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 the decision of the previous panel. However, it has exercised its own judgement in relation to the question of current impairment. The panel also took into account Social Work England’s ‘Impairment and sanctions guidance’.
17. The panel had regard to all the documentation before it, including the decision and reasons of the original panel. The panel also took account of the written submissions on behalf of Social Work England.
18. The panel heard and accepted the advice of the legal adviser. In reaching its decision, the panel was mindful of the need to protect the public and the wider public interest in declaring and upholding proper standards of behaviour and maintaining public confidence in the profession.

19. The panel first considered whether Ms Franklin's fitness to practise remains impaired.
20. Ms Franklin has not engaged with Social Work England's Case Review Team, has taken no steps towards compliance with the conditions of practice order, and has not provided any evidence for this review as suggested by the final hearing panel. She has not provided any evidence of reflection, insight, or remediation for this panel to review and has confirmed that she has no evidence to submit. In the circumstances, the panel concluded that there is a significant ongoing risk of repetition of misconduct.
21. The panel noted that the misconduct found proved by the final hearing panel was serious and wide-ranging with potentially significant implications for service users. The panel concluded that there has been no change in the risk of repetition and that there is an ongoing risk of harm to members of the public.
22. In these circumstances, the panel concluded that Ms Franklin's fitness to practise remains impaired.

Decision and reasons:

23. Having found Ms Franklin's fitness to practise is currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel had regard to the submissions made along with all of the information and accepted the advice of the legal adviser.
24. The panel considered the written submissions made on behalf of Social Work England, during which the panel was invited to consider imposing a suspension order. The panel also took into account the 'Impairment and sanctions guidance' published by Social Work England.
25. The panel was mindful that the purpose of any sanction is not to punish Ms Franklin, but to protect the public and the wider public interest. The public interest includes maintaining public confidence in the profession and Social Work England as its regulator and by upholding proper standards of conduct and behaviour. The panel applied the principle of proportionality by weighing Ms Franklin's interests with the public interest.
26. The panel considered the options available to it in ascending order.

Revoke the conditions of practice order/allow the current conditions of practice order to lapse upon its expiry/impose a warning

27. The panel has concluded that the deficiencies identified with Ms Franklin's practice continue to have the potential to have wide-ranging adverse consequences and therefore some restriction on her practice is required. Therefore, the panel concluded that options that would not restrict practice would be inappropriate and insufficient to meet the public interest.

Extend the current conditions of practice order for a further period of time with effect from the expiry of the current order:

28. The panel considered whether the current conditions of practice order should be extended for a further period of time. Although the deficiencies identified with Ms Franklin's practice are potentially capable of being remedied, Ms Franklin has not taken any steps towards compliance with the conditions over a lengthy period of eighteen months. Her engagement with Social Work England has been limited. There was no material before the panel to indicate that her position will change, and there would be no merit in extending the current order.

Suspension order

29. The panel carefully considered the option of imposing a suspension order as suggested in Social Work England's written submissions. While the panel acknowledged that Ms Franklin had attended the final hearing and demonstrated some insight at that hearing, the panel's focus was on Ms Franklin's current position and her response to the conditions of practice order. Her response has been entirely consistent with her indication that she had no desire to return to social work. This position has been maintained throughout the duration of the eighteen-month conditions of practice order. The panel considered that Ms Franklin has been given a full opportunity to demonstrate that she is willing to remediate the deficiencies in her practice. She has not suggested that there have been circumstances or barriers preventing her from taking steps to keep her knowledge and skills up to date or seeking a suitable position as a social worker to work under the conditions of practice over the last eighteen months. There was no suggestion or indication in her recent e-mail dated 4 May 2023 that she now wishes to engage with her regulator. To the contrary, she did not wish to attend a review hearing.
30. In the circumstances, the panel decided that there was little prospect that if the panel were to impose a suspension order Ms Franklin would engage with Social Work England or provide evidence for a review hearing. In the panel's judgment the imposition of a six-month suspension order would serve no purpose. It is not in the public interest for the panel to impose a suspension order in circumstances where there is no realistic prospect that Ms Franklin will engage with her regulator. In this case there is no evidence to suggest that Ms Franklin is willing to resolve or remediate her failings and therefore the panel concluded that a suspension order would not be appropriate or sufficient to meet the public interest.

Removal order

31. The panel was satisfied it could consider that a removal order was available to the panel as Ms Franklin's fitness to practise was originally found impaired on the basis of misconduct.

32. The panel noted that a removal order is a sanction of last resort where there is no other means of protecting the public or the wider public interest. The panel took the view that a removal order would be appropriate because Ms Franklin's fitness to practise remains impaired, but she is not able to or does not wish to remediate the deficiencies in her practice. The Sanctions Guidance states that a removal order may be appropriate for "*social workers who are unwilling and/or unable to remediate (for example, where there is clear evidence that they do not wish to practise as a social worker in the future)*". In this case Ms Franklin had previously given an indication that she had no desire to return to social work and has not practised since 2017. Her response to the conditions of practice order since the final hearing in December 2021 also indicates that she is unwilling or unable to remediate. There was no evidence before the panel to indicate that Ms Franklin would oppose her removal from the register.
33. A removal order protects the public and it also sends a clear message to members of the profession and the public as to the required professional standards for social workers in England. The Panel concluded that a removal order is the appropriate and proportionate order.

Right of appeal:

34. Under Paragraph 16(1)(b) of Schedule 2 of The Social Workers Regulations 2018 (as amended), 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,
 - b. the decision of the regulator on review of an interim order, or a final order, other than a decision to revoke the order.
35. Under Paragraph 16(2) of Schedule 2 of The Social Workers Regulations 2018 (as amended) an appeal must be filed before the end of the period of 28 days beginning with the day after the day on which the social worker is notified of the decision complained of.
36. Under Paragraph 15(1A) of Schedule 2 of The Social Workers Regulations 2018 (as amended), where a social worker appeals against a decision made under sub-paragraph (1), the decision being appealed takes effect from the date specified in that sub-paragraph notwithstanding any appeal against that decision.
37. This notice is served in accordance with Rules 44 and 45 of the Fitness to Practise Rules 2019 (as amended).

Review of final orders:

38. Under regulation 15(1), 15(2) and 15(3) of Schedule 2 of The Social Workers Regulations 2018 (as amended):

- 15(1) The regulator must review a suspension order, or a conditions of practice order, before its expiry.
- 15(2) The regulator may review a final order where new evidence relevant to the order has become available after the making of the order, or when requested to do so by the social worker.
- 15(3) A request by the social worker under sub-paragraph (2) must be made within such period as the regulator determines in rules made under Regulation 25(5).

39. Under Rule 16(aa) of the Fitness to Practise Rules 2019 (as amended), a social worker requesting a review of a final order under paragraph 15 of Schedule 2 must make the request within 28 days of the day on which they are notified of the order.