

Social worker: Hayley Roberts  
Registration number: SW126578  
Fitness to Practise  
Final Order Review Meeting

Date of Meeting: 29 June 2023

Meeting venue: Remote Meeting

Final order being reviewed:  
Suspension order expiring 7 August 2023

Hearing Outcome: Removal Order

### Introduction and attendees:

1. This is the second review of a final suspension order originally imposed for a period of 18 months by a panel of adjudicators on 9 August 2021. The suspension order was extended for a further period of five months at a review hearing on 5 January 2023. The suspension order is due to expire on 7 August 2023.
2. Ms Roberts 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                      |
|---------------|---------------------------|
| Miriam Karp   | Chair                     |
| Sarah Redmond | Social worker adjudicator |

| Hearings team/Legal adviser | Role                     |
|-----------------------------|--------------------------|
| Hannah McKendrick           | Hearings officer         |
| Wallis Crump                | Hearings support officer |
| Andrew McLoughlin           | 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 31 May 2023 and addressed to Ms Roberts at an email address which they provided to Social Work England
  - An extract from the Social Work England Register as at 31 May 2023 detailing Ms Roberts' email address.
  - A copy of a signed statement of service, on behalf of Social Work England, confirming that on 31 May 2023 the writer sent by email to Ms Roberts at the email address referred to above: notice of hearing and related documents;
5. The panel accepted the advice of the legal adviser in relation to service of notice.
6. Having had regard to Rule 44 of Social Work that England's Fitness to Practise Rules (as amended) 2019 ("the Rules") 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 Ms Roberts in accordance with the Rules.

### Proceeding with the final order review as a meeting:

7. The notice of final order review informed Ms Roberts 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 14 June 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 received no information to suggest that Ms Roberts had responded to the notice of final order review.
9. The panel heard and accepted the advice of the legal adviser with regard to Rule 16(c) of the Rules 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.”*

10. The panel was satisfied that it would be fair and appropriate to conduct the review in the form of a meeting in accordance with Rule 16(c).

### Review of the current order:

11. This final order review hearing is taking place under Paragraph 15(1) of Schedule 2 of The Social Workers Regulations 2018 (as amended) (“the Regulations”) and the Rules Social Work England’s Fitness to Practise Rules 2019 (as amended).
12. The current order is due to expire at the end of 7 August 2023.

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

13. *Whilst working as a support worker, in July and August 2019:*

1. *You failed to maintain professional boundaries with a service user;*

*The matters outlined in (1) amount to misconduct.*

*Your fitness to practise is impaired by reason of your misconduct.*

## Background

14. Ms Roberts worked as a support worker for Bury Council. Her duties included providing support to a service user ('Service User A'), who was vulnerable and suffered from mental health difficulties, a learning difficulty and had a history of substance misuse. Initially, Ms Roberts worked through an agency named Praxis Care. In June 2019, an agency named Calico took over Praxis Care's contract with Bury Council and Ms Roberts became an employee of Calico in July 2019.

15. On 2 September 2019, Service User A told Ms B, a colleague support worker of Ms Roberts, that he had had a sexual relationship with Ms Roberts when she worked as his support worker in July and August 2019.

16. On 03 September 2019, Service User A repeated the allegations in a telephone conversation with Ms B and her team leader, Mr H. On 05 September 2019, during a visit to his home by Mr H and Ms B, Service User A signed the notes of the conversation, confirming that they were, subject to some written amendments and additions which he made, a true record of the telephone conversation.

17. The allegations made by Service User A included that Ms Roberts:

- Touched Service User A's penis but they did not have sexual intercourse;
- Visited, called and sent texts to Service User A outside of working hours;
- Sent a number of text messages to Service User A's telephone – of those shown to Mr H, four were from a phone marked "Hayley" and 15 were from a phone marked "Terces" (which is secret spelt backwards) and which was later identified as Ms Roberts' personal mobile telephone number;
- Tried to have phone sex with Service User A (but the texts were deleted);
- Would cuddle up on the couch with Service User A;
- Tricked Service User A into falling in love with her and this made him try to commit suicide and turn back to using illegal substances, namely heroin;
- Turned up outside of Service User A's house drunk after she had been on a night out with her friend, trying to get in and lifting her top to expose her breasts. He then accused her of tearing down a neighbour's washing from the line;
- Told Service User A that she likes masturbating and likes being forced to have sex;

- Said to Service User A that they could be “fuck-buddies without the fuck”; and
  - Invited Service User A to her home for Sunday dinner with her family.
18. On 16 September 2019, Calico held a disciplinary meeting with Ms Roberts at which she was notified of the details of the allegations made by Service User A. Initially, Ms Roberts denied any inappropriate or “out of hours” contact with Service User A. However, when shown copies of text messages which she was alleged to have sent to Service User A, she agreed that there had been personal contact but denied that there had been a sexual relationship. At that meeting Ms Roberts said that her relationship with Service User A was purely professional but acknowledged that the text messages could be seen as a breach of professional boundaries.
  19. On 23 September 2019, Ms Roberts resigned from her employment with Calico, stating in her letter of resignation that she did not think that it was in anybody’s best interests for her to return to work at Calico.
  20. The matter was referred to Social Work England and a substantive hearing was held between 2 August 2021 and 9 August 2021.
  21. In summary, the substantive hearing panel found proved that the text messages sent by Ms Roberts to Service User A, constituted a failure to maintain professional boundaries with a service user.

The previous final order review panel on 5 January 2023 determined the following with regard to impairment:

22. *“The panel noted the substantive hearing panel’s determination in respect of impairment. The panel also noted, since the previous panel’s determination, Ms Roberts has not provided any evidence to demonstrate that she has taken steps to address her misconduct. She has also not provided any evidence of additional training, or skills learned in a non-social work role, which might have addressed her failings and which had an impact on a very vulnerable service user. Further, she has not demonstrated any additional insight or remorse for her actions.*
23. *The panel observed that Ms Roberts has had eighteen months, whilst suspended, to provide evidence of insight and remediation and she has failed to do so. The panel considered that it could not yet be confident that Ms Roberts has the required level of insight and that she has remedied her failings and therefore could not be confident that the behaviour would not be repeated.*
24. *The panel noted the substantive hearing panel’s determination in respect of the public component of impairment. The panel was of the view that Ms Roberts remained impaired in respect of the public component. Ms Roberts’ misconduct occurred a number of years ago and she has not provided any evidence of further training, which would satisfy the panel that she has addressed her conduct, nor has she provided evidence to demonstrate that she has*

*not become de-skilled during this time. The panel was of the view that there remained a real risk to the public in these circumstances and that a finding of current impairment was required to maintain public confidence in the profession, which would be undermined should Ms Roberts be permitted to return to unrestricted practice.*

25. *Accordingly, taking all of the aforementioned into account, the panel concluded that, with the personal and public components in mind, and taking into account Ms Roberts' very limited engagement, her fitness to practise remains impaired."*

The previous final order review panel on 5 January 2023 determined the following with regard to sanction:

26. *"The panel first considered taking no action. The panel concluded that, in view of the serious nature of the concerns, which remain unaddressed, it would be inappropriate take no action, as it would be insufficient to protect the public. Due to the continuing concerns about Ms Roberts' fitness to practise, the panel also concluded that a caution or warning would be inappropriate and insufficient to protect the public. Neither sanction would be subject to a review nor would either adequately address the concerns that have been identified in this case.*
27. *The panel next considered a Conditions of Practice Order. However, owing to Ms Roberts' limited engagement there is no information before the panel regarding her current circumstances other than her email stating that she is working in a co-ordinator capacity. Whilst the panel noted that there is no indication from Ms Roberts that she would be willing to comply with a conditions of practice order, in any event the panel considered that conditions of practice could not be drafted which would be proportionate, appropriate or able to be put into practice. In the panel's view, conditions of practice would need to be so stringent that they would be tantamount to a suspension.*
28. *Having determined that a conditions of practice order would not be appropriate, the panel next considered extending the current suspension order versus imposing a removal order. The panel considered these options very carefully.*
29. *The panel noted that a suspension order would provide the necessary public protection as it prevents Ms Roberts from working as a social worker. However, the panel also weighed this against the fact that Ms Roberts has, over the past 18 months, failed to provide any evidence of insight or attempts at remediation and the panel was concerned that extending the current suspension order would not serve a legitimate purpose in view of Ms Roberts' limited engagement in the proceedings thus far.*
30. *Further, the panel also noted that in her email dated 22 November 2022, Ms Roberts' requested that her employer not be contacted. The panel was concerned by this request as it led the panel to the conclusion that Ms Roberts is being less than forthcoming about the previous panel's findings with her new employers. Whilst the panel noted that her new role is in a non-social work capacity and therefore not regulated by Social Work England, the*

*panel considered that this lack of transparency on Ms Roberts' part was nevertheless concerning and left the panel concluding that this request demonstrated an unwillingness to approach her new employer for a reference or testimonial, as requested by the previous panel.*

- 31. Further, the panel also noted at paragraph 96 of Social Work England's Sanction Guidance, that panels are required to consider whether an individual who has been subject to a period of suspension for longer than one year would be likely to be 'deskilled'. The panel noted, that Ms Roberts has been suspended for a period in excess of twelve months and has not furnished any evidence of up-to-date continuing professional development to satisfy it that she has not become deskilled. Having regard to all of the circumstances of this case, and without any evidence to the contrary, the panel determined that there is a real risk that Ms Roberts has become deskilled.*
- 32. However, the panel also considered 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 had regard to Ms Roberts' email and to Social Work England's submissions that Ms Roberts should be provided with a final opportunity to engage with her regulator and with the regulatory process.*
- 33. Balancing public protection with Ms Roberts' own interests, the panel determined that it would afford Ms Roberts with a another opportunity to engage in view of the difficult personal circumstances outlined by her within her email and considered that a removal order would be disproportionate at this time.*
- 34. The panel noted Social Work England's submission that the suspension order should be extended for 8 months. The panel noted it had no objective medical evidence relating to Ms Roberts' mental health. Nor, does it have any information about whether Ms Roberts intends in the future to engage in a meaningful way, by providing employer testimonials, evidence that her skills are up-to-date and that her insight has developed fully.*
- 35. Having regard to the aforementioned, the panel determined that it is not in the public interest to extend the order unduly. It determined that the appropriate order is to extend the current suspension order for a period of five months from the expiry of the current order. The panel considered that five months would provide Ms Roberts with sufficient time to undertake the following in order to assist a future review:*
  - i. Engagement with her General Practitioner and provide Social Work England with evidence of any diagnosis and/or treatment that she is undergoing;*
  - ii. Provide references and/or testimonials, including one from her current employer and any other organisation she has worked for since her suspension these should address her approach to professional boundaries and her employers' knowledge of these proceedings;*
  - iii. Provide evidence of Continuing Professional Development;*
  - iv. Provide evidence of training in respect of her identified failings; and*

v. Provide a reflective piece.”

### Social Work England submissions:

36. The panel considered the written submissions contained in the notice of hearing which were as follows: –

*“Subject to the Social Worker providing any evidence of the evidence requested by the Panel on 5 January 2023, Social Work England invite the Panel to impose a Removal Order.*

*The Social Worker’s fitness to practise was found to be impaired by reason of misconduct on 9 August 2021. This was reviewed by a Panel of Adjudicators on 5 January 2023, and the Panel found that the Social Worker’s was still impaired as the Social Worker had not provided any evidence of remediation and insight. The Panel extended the Suspension Order for a further 5 months, and the Social Worker has still not provide any evidence of insight or remediation.*

*Social Work England submit that the Social Worker’s fitness to practise remains impaired.*

*The Social Worker has also indicated that they wished to be removed from the register. The Social Worker was given a link to the Voluntary Removal guidance but they have not yet made this application.*

*A Removal Order is the appropriate and proportionate order to impose as any lesser sanction would be insufficient to protect the public and the wider public interest, due to the Social Worker’s unwillingness to remediate, in accordance with paragraph 149 of the Sanction Guidance.”*

### Social worker submissions:

37. Ms Roberts did not attend and had not sent any written submissions to Social Work England for the panel to consider.

### Panel decision and reasons on current impairment:

38. 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 panels. 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’ (last updated 19 December 2022).

39. The panel had regard to all of the documentation before it, including the decision and reasons of the original panel and the previous review panel. The panel also took account of the written submissions made by Social Work England.
40. 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 maintain public confidence in the profession.
41. The panel first considered whether Ms Roberts' fitness to practise remains impaired.
42. The panel noted that since the review hearing on 5 January 2023 Ms Roberts has provided no evidence to establish remediation, insight or remorse for what the panel considered to be a serious case of misconduct which involved breaching one of the fundamental tenets of the social work profession.
43. The panel further noted that Ms Roberts had not provided any testimonials regarding her competency or character and that there was no evidence provided by of any training she had received for Continuing Professional Development courses she had taken since the final hearing on 9 August 2021.
44. The panel considered that the misconduct proven could have been remedied had Ms Roberts demonstrated a high level of engagement since the final hearing and provided evidence to show reflection, insight, remorse and remediation. She had failed to do so as she had taken no steps whatsoever to follow the recommendations of the review panel of 5 January 2023.
45. The panel concluded therefore that as a result there remained a high risk of repetition of the original misconduct and if repeated a real risk of serious harm to service users.
46. The panel concluded further that the public interest would not be served if it did not make a finding that Ms Roberts' current fitness to practise was impaired as her misconduct breached one of the fundamental tenets of the social work profession. In this regard the panel concluded that the original period of the suspension order would have adequately marked the public interest. However given the risk of repetition, lack of insight and remediation, along with the absence of any evidence that Ms Roberts has kept her skills and knowledge up-to-date, the panel concluded that a well-informed member of the public would expect a finding of continued impairment.

#### Decision and reasons on sanction:

47. Having found Ms Roberts' 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 the information and accepted the advice of the legal adviser.

48. The panel considered the written submissions made by Social Work England. The panel also took into account the 'Impairment and sanctions guidance' published by Social Work England (last updated 19 December 2022).
49. The panel was mindful that the purpose of any sanction is not to punish Ms Roberts, 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 Roberts' interests with the public interest.
50. The panel first considered taking no action. The panel concluded that, in view of the serious nature of the concerns, which remain unaddressed, it would be inappropriate to take no action, as it would be insufficient to protect the public. Due to the continuing concerns about Ms Roberts' fitness to practise, the panel also concluded that a caution or warning would be inappropriate and insufficient to protect the public. Neither sanction would be subject to a review nor would either adequately address the concerns that have been identified in this case.
51. The panel next considered a Conditions of Practice Order. However, owing to Ms Roberts' limited engagement there is no information before the panel regarding her current circumstances other than an email in November 2022 stating that she is working in a co-ordinator capacity. This role does not require professional social work registration. Whilst the panel noted that there is no indication from Ms Roberts that she would be willing to comply with a conditions of practice order, in any event the panel considered that conditions of practice could not be drafted which would be proportionate, appropriate or able to be put into practice. In the panel's view, conditions of practice would need to be so stringent that they would be tantamount to a suspension.
52. Having determined that a conditions of practice order would not be appropriate, the panel next considered extending the current suspension order versus imposing a removal order. The panel considered these options very carefully.
53. The panel noted that a suspension order would provide the necessary public protection as it prevents Ms Roberts from working as a social worker. However, the panel noted that Ms Roberts had failed to provide any evidence of insight or attempts at remediation over a period of in excess of 22 months, despite clear indications being given by the review panel on 5 January 2023 as to what would assist her in this regard.
54. The panel further noted that Ms Roberts' most recent response was to request Social Work England assist with the voluntary removal of her name from the Social Work England register. The panel noted that she had not taken that step.
55. The panel concluded that despite being given a further five months, since the first review panel, to re-engage with the regulatory process, she had failed to do so.
56. The panel considered paragraph 149 of the Impairment and sanctions guidance produced by Social Work England (last updated 19 December 2022) which states that-

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

- *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)”*

57. The panel was satisfied it could consider that a removal order was available to the panel as Ms Roberts’ fitness to practise was originally found impaired on the basis of the ground as set out in Regulation 25(2)(a) of the Regulations.

58. 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 concluded that a removal order would be appropriate because Ms Roberts had demonstrated an unwillingness and/or inability to remediate despite being given more than sufficient opportunity to do so. The panel also noted that Ms Roberts had indicated a desire not to continue to practise as a social worker in the future. The panel concluded that a further extension to the suspension order would serve no purpose given the prolonged lack of engagement demonstrated by Ms Roberts since 9 August 2021.

59. In the light of these circumstances, the panel concluded that the appropriate and proportionate sanction in respect of Ms Roberts was removal from the register as this sanction would protect service users from risk of harm and maintain public confidence in the social work profession.

### Right of appeal:

60. 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.

61. 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.

62. 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.

63. This notice is served in accordance with Rules 44 and 45 of the Fitness to Practise Rules 2019 (as amended).

#### Review of final orders:

64. 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).

65. 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.

#### The Professional Standards Authority

66. Please note that in accordance with section 29 of the National Health Service Reform and Health Care Professions Act 2002, a review decision made by Social Work England's panel of adjudicators can be referred by the Professional Standards Authority ("the PSA") to the High Court. The PSA can refer this decision to the High Court if it considers that the decision is not sufficient for the protection of the public. Further information about PSA appeals can be found on their website at:

<https://www.professionalstandards.org.uk/what-we-do/our-work-with-regulators/decisions-about-practitioners>