

Social worker: Doreen Fleming

Registration number: SW130325

Fitness to Practise

Final Hearing

Dates of hearing: 10 July 2023 to 13 July 2023

Hearing venue: Remote hearing

Hearing Outcome: Fitness to practise impaired, removal order

Interim order: 18 months

Introduction and attendees:

1. The hearing was held under Part 5 of The Social Workers Regulations 2018 (as amended) ('the Regulations').
2. Ms Doreen Fleming, a registered social worker, was not present at the hearing nor was she represented.
3. Social Work England was represented by Ms Rebecca Steels, case presenter, instructed by Capsticks LLP.

Adjudicators	Role
Jill Crawford	Chair
Rosemary Chapman	Social worker adjudicator
Jenny Childs	Lay adjudicator

Simone Ferris	Hearings officer 10 – 12 July 2023
Paul Harris	Hearings officer 13 July 2023
Khadija Rafiq	Hearings support officer
Conor Heaney	Legal adviser

Service of notice:

4. The panel of adjudicators ('the panel') had regard to the documents contained in the final hearing service bundle as follows:
 - A copy of the notice of the final hearing dated 7 June 2023 and addressed to Ms Fleming at her registered Social Work England postal and email addresses;
 - An extract from the Social Work England Register detailing Ms Fleming's registered postal and email addresses;
 - A copy of a signed statement of service, on behalf of Social Work England, confirming that, on 7 June 2023, the following documents were sent to Ms Fleming by next day special delivery and email: Notice of Hearing letter and enclosures; and
 - A Royal Mail 'Track and Trace' proof of delivery extract which confirmed that the letter containing the notice of the final hearing sent to Ms Fleming was signed for on 9 June 2023 at 10.25 hours by 'D.F'.
5. The panel accepted the advice of the legal adviser in relation to service of notice.
6. Having had regard to the applicable provisions of Social Work England's Fitness to Practise Rules 2019 (as amended) ('the Rules') and all of the information before it in relation to the service of notice, the panel was satisfied that notice of the hearing had been duly served on Ms Fleming in accordance with rules 14, 44 and 45 of the Rules.

Proceeding in the absence of the social worker:

7. Ms Steels applied for the hearing to proceed in Ms Fleming's absence. She referred the panel to a case management meeting held in connection with these proceedings on 27 June 2023, at which Ms Fleming was in attendance remotely. The written decision of the case management meeting was contained in the papers before the panel. Ms Steels referred the panel to that part of the decision in which it is recorded:

'Ms Fleming submitted that because "she had moved on" and did not want to return to "dark days", she was content for Social Work England to put in evidence whatever it chose and she would abide by any decision made.'

8. The panel was also referred by Ms Steels to an email sent by Ms Fleming to Social Work England on 3 July 2023. In the email, Ms Fleming stated:

'As I have already expressed in the meeting held on the 27th of June, the investigation has taken over 2 years and I have mentally and psychologically moved on and do not want to be dragged back into a dark place of months of sleepless night (sic). I'm very grateful for the opportunity given to me to attend the hearing but I do not wish to attend the hearing.'

9. The panel accepted the advice of the legal adviser in relation to the factors to take into account when considering whether to proceed in the absence of Ms Fleming. This included reference to the cases of *R v Jones* [2003] UKPC 34 and *General Medical Council v Adeogba* [2016] EWCA Civ 162.
10. The panel was satisfied that Ms Fleming had, by her actions, voluntarily waived her right to attend the hearing. No useful purpose would be served if the hearing was adjourned. The panel was also mindful that the allegations dated back to 2019 and that a number of witnesses had been scheduled to give evidence at the hearing. The panel considered that it was important, given the nature of the allegations, to proceed with the hearing and hear the witness evidence when the recollection of events would be fresher at this hearing, rather than if the hearing was to be adjourned to some date in the future.
11. The panel considered that, in deciding to proceed in her absence, there would be some disadvantage to Ms Fleming. However, the panel was of the view that the extent of any disadvantage could be minimised by attaching such weight, as the panel considered appropriate, to the contemporaneous documentation provided by Ms Fleming to Social Work England in the course of these proceedings.
12. For these reasons, the panel decided that it was fair and appropriate to proceed with the hearing in Ms Fleming's absence.

Allegation:

13. The allegation arising out of the regulatory concerns referred by the Case Examiners on 8 April 2022 is:

Whilst registered as a Social Worker:

- 1. On one or more occasions between 7 November 2019 and 22 February 2021, whilst employed at Essex County Council, you failed to disclose, or failed to disclose the full extent of, your concurrent employment with Brent Council.***
- 2. Your conduct as outlined in paragraph 1 was dishonest.***
- 3. Between 22 February 2021 and 21 May 2021, you failed to inform the regulator, Social Work England, of Essex County Council's investigation into these matters.***

The matters outlined in paragraphs 1 to 3 amount to the statutory ground of misconduct.

Your fitness to practise is impaired by reason of misconduct.

Summary of evidence:

14. On 21 May 2021, Social Work England received a referral in respect of Ms Fleming from Ms Samantha Myddleton, People, Project & Casework Manager at Essex County Council ('ECC').
15. Ms Fleming was employed at Brent Council ('BC') on 23 August 2019 as a full-time care and support worker. This was an unqualified role. Ms Fleming was contracted to work for 36 hours per week.
16. Ms Fleming commenced employment with ECC as a social worker on 7 November 2019. When she was first employed by ECC, Ms Fleming was in her Assessed and Supported Year in Employment ('ASYE'). She was employed by ECC as a social worker on a full-time basis within the Adult Social Care Team. On 11 February 2021, Ms Fleming's manager, Ms Joseph, was contacted by ECC's Counter Fraud Specialist Officer who notified her that Ms Fleming had been on the payroll records of BC in a full-time role since August 2019.
17. An investigation was conducted by ECC into the allegation that Ms Fleming had held two full-time roles concurrently, without fully informing either employer of the other. Separately, Ms Fleming faced an allegation that she had failed to inform Social Work England, as her regulator, of the investigation being conducted into her alleged conduct by ECC. These matters formed the basis of the Allegation considered by the panel at the hearing.
18. The panel heard evidence from the following witnesses called by Social Work England:

- Ms Sally Joseph, Team Manager, Adult Social Care Team, ECC;
- Ms Julie Molyneaux, Service Manager, ECC;
- Ms Nadine Lazzarotti, Deputy Team Manager, ECC;
- Mr Thomas Atkinson, Interim Team Manager, Tudor Gardens Supported Living Team, BC; and
- Mr Darren Bowes, People Case Worker, ECC.

Ms Sally Joseph

19. Ms Joseph was Ms Fleming's direct line manager. She was not involved in the local investigation but was interviewed as a witness. Ms Joseph was not involved in the subsequent referral made by ECC to Social Work England.
20. On 11 February 2021, Ms Joseph received an email from ECC's Counter Fraud Specialist Team which advised that Ms Fleming's name had been flagged as potentially having two jobs, one with ECC and another with BC.
21. On 22 February 2021, Ms Joseph had an informal meeting with Ms Fleming during which the contents of the email dated 11 February 2021 was discussed. At the meeting, Ms Joseph's evidence was that, initially, Ms Fleming denied that she had a second job working for BC. Later in the meeting, Ms Fleming was stated by Ms Joseph to have admitted that she did indeed have a second job but had worked for BC on an *ad hoc* basis doing bank work. As the meeting was being drawn to a close, Ms Joseph stated that Ms Fleming admitted that she had been holding down a second job with BC and that Ms Fleming had said that she had thought she would get away with that but that things had caught up with her. The requirement to file a declaration of interest form was also discussed at the meeting.
22. Ms Joseph made a contemporaneous record of the meeting, which was included in the hearing bundle, which she stated was an accurate record of what had been discussed between her and Ms Fleming.

Ms Julie Molyneaux

23. Ms Molyneaux was requested by Ms Lisa Smith, Service Manager at ECC, to conduct the local investigation into the allegation that Ms Fleming had failed to disclose to ECC her concurrent full-time employment with BC as a care and support worker. As part of her investigation, Ms Molyneaux interviewed Ms Fleming on 11 March 2021. She interviewed Ms Joseph on 12 March 2021. On 16 March 2021, Ms Molyneaux interviewed Mr Anoop Nair, a senior social worker at ECC and who, from August 2020, was Ms Fleming's supervisor. On 16 March 2021, Ms Molyneaux also interviewed Ms Lazzarotti. Written notes of these interviews were included in the hearing bundle.

Ms Nadine Lazzarotti

24. Ms Lazzarotti, in an email dated 9 January 2020, sent Ms Fleming a copy of ECC's 'Outside work opt out form'. She was unable to recollect whether Ms Fleming returned the form

completed. On 12 January 2021, Ms Lazzarotti had a supervision meeting with Ms Fleming, at which Mr Nair was also in attendance. Ms Fleming, during supervision, advised that she was not undertaking any additional work, separate from her employment at ECC. Ms Lazzarotti also gave evidence as to conversations she said that she had had with Ms Fleming when the topic of Ms Fleming's employment with BC was discussed.

Mr Thomas Atkinson

25. Mr Atkinson's evidence was that, from 27 August 2019 until the present time, Ms Fleming was employed by BC, working 36 hours per week over four shifts, as a care and support worker. Mr Atkinson stated that he had no prior knowledge of Ms Fleming's role with ECC until she informed BC that she was the subject of a local investigation into the allegation that she was working concurrently for ECC and BC in two full-time positions in a social care setting.

Mr Darren Bowes

26. Mr Bowes' evidence was that he provided administrative and procedural support in relation to the local investigation which was being conducted by Ms Molyneaux. He was not involved in the investigation substantively. He provided advice on the investigation report before its submission. Mr Bowes provided the panel with a copy of the disciplinary policy in force at the time.
27. It was clarified that, in error, Mr Bowes had attached as an exhibit to his witness statement the ECC disciplinary policy which was applicable subsequent to the dates covered by the Allegation. The panel noted that the correct disciplinary policy had been emailed to Ms Fleming by Social Work England on the morning on which Mr Bowes was due to give evidence. The email confirmed that Ms Fleming could comment on the contents of the email if she wished. There had been no reply in response from Ms Fleming.

Finding and reasons on facts:

28. The panel accepted the legal adviser's advice.
29. In the course of that advice, the panel was advised as to the burden and standard of proof. The standard of proof was the civil standard, the balance of probabilities. The panel was reminded that it needed to consider the Allegation and each Particular and apply the balance of probabilities to the evidence. Ms Fleming did not have to prove anything.
30. The panel carefully considered the oral and documentary evidence at the fact-finding stage of the proceedings.
31. The panel then turned to consider the Allegation.

Whilst registered as a Social Worker:

1. On one or more occasions between 7 November 2019 and 22 February 2021, whilst employed at Essex County Council, you failed to disclose, or failed to disclose the full extent of, your concurrent employment with Brent Council.

32. The panel considered whether, as an employee of ECC, Ms Fleming was under a duty to disclose to ECC whether she had any other paid roles with any other employer. The evidence presented at the hearing established, to the panel's satisfaction, that Ms Fleming was under such a duty.
33. First, the panel had regard to ECC's Code of Conduct ('the Code'). Employees were reminded of the importance of the fundamental principles of acting with honesty and integrity. Specifically, it was a mandatory requirement of the Code that employees of ECC discuss with their line manager any proposed paid or unpaid work which was in addition to work undertaken by the employee with ECC. Second, ECC's Declaration of Interests Policy required its employees to declare any interest with an outside body. The term 'outside body' was defined to include employment in any other business or organisation. The policy advised that any failure to make the appropriate declaration would amount to a disciplinary offence. Third, ECC's Outside Work Policy required ECC employees to discuss the taking on of any additional work with their line manager. If the combined total of the hours worked in the ECC position and any additional position exceeded 48 hours per week, an 'opt out' form, to comply with applicable working time directives, needed to be completed by the employee.
34. In the disciplinary investigation meeting conducted by Ms Molyneux on 11 March 2021, Ms Fleming confirmed that she had read the relevant policies and the Code.
35. The panel next considered the extent, if any, to which Ms Fleming complied with the duty placed upon her to declare to ECC any other role which she had with any other body or organisation.
36. Ms Fleming completed a Declaration of Interest form on 6 December 2019, shortly after she took up her position as a social worker with ECC. In that form, Ms Fleming declared that, from 27 August 2019, she held a position as a care and support worker with BC. In her written response in the course of these proceedings, Ms Fleming stated:
- 'Upon my commencement of employment at Essex I declared my employment with Brent with the intention of maintaining part time hours ... I did not however update the notification with Brent.'
37. Ms Lazzarotti's evidence was that she was aware of Ms Fleming's Declaration of Interest form when she returned from a period of maternity leave in December 2019/January 2020. Having sought advice from Ms Smith, Ms Lazzarotti spoke to Ms Fleming about the contents of the Declaration of Interest form which had been completed. Ms Lazzarotti stated that Ms Fleming told her that her employment with BC occurred on an occasional 'as and when' basis, mostly at weekends and some nights. Ms Lazzarotti subsequently received advice from ECC's HR department and, following on from that advice, on 9 January 2020, Ms Lazzarotti sent an email to Ms Fleming. The email contained a link to all the applicable policies. Ms Lazzarotti in

the email requested that Ms Fleming complete the 'opt out' form. There was no evidence to suggest that the 'opt out' form had been completed by Ms Fleming as requested.

38. Ms Lazzarotti also gave evidence of conversations she had had with Ms Fleming in which the topic of outside employment was discussed. Although Ms Lazzarotti could not recall the dates of the conversations, and had not kept a written record of them, her evidence was that Ms Fleming had stated that her employment at BC was occasional and on an *ad hoc* basis.

39. On 12 January 2021, a supervision meeting took place with Ms Fleming at which Ms Lazzarotti and Mr Nair were in attendance. In the course of the local investigation, the accounts of the meeting on 12 January 2021 given by Ms Lazzarotti and Mr Nair were that Ms Fleming stated that, at that time, she had no other role other than her position as a social worker with ECC. Ms Lazzarotti's written record of the interview recorded as follows:

'...Doreen had mentioned previously to [Ms Lazzarotti] that she was working ad hoc hours as a carer. Doreen said that she is not doing any extra work.'

40. In her written response in the course of these proceedings, Ms Fleming stated that at no stage had she ever denied that she had been employed with BC. The panel was not persuaded by Ms Fleming's written response which was not supported by the evidence presented at the hearing. The panel preferred the accounts given by Ms Lazzarotti and Mr Nair in which, at the meeting on 12 January 2021, Ms Fleming had denied that, at that time, she was working for any other body or organisation other than ECC.

41. In a meeting with Ms Joseph on 22 February 2021, after Ms Fleming's name was alerted by ECC's Counter Fraud Specialist Team that linked her to two paid roles, Ms Fleming set out her position with regard to her employment by BC. Initially, she denied that she was employed by BC. Subsequently, she accepted that she was employed by BC but on bank shifts on an *ad hoc* basis. As the meeting, which was recorded as lasting approximately one hour, was being closed by Ms Joseph, Ms Fleming disclosed the full extent of her employment with BC. In her written response in the course of these proceedings, Ms Fleming stated that she had '*panicked*' but that she had '*quickly retracted and told [Ms Joseph] the truth during this meeting.*'

42. When considering these matters, the panel had regard to Mr Atkinson's evidence that, during this period and continuing to the present, Ms Fleming was being employed by BC to work 36 hours per week as a care and support worker.

43. The panel was satisfied that Ms Fleming had failed to disclose to ECC the full extent of her concurrent employment with BC and, with regard to the meeting on 12 January 2021, had failed to disclose at all her concurrent employment with BC during that meeting.

44. Accordingly, the panel found Particular 1 proved.

2. Your conduct as outlined in paragraph 1 was dishonest.

45. In respect of dishonesty, the legal adviser gave advice on the guidance provided by the Supreme Court in the case of *Ivey v Genting Casinos* [2017] UKSC 67, at paragraph 74 of the judgment. This was as follows:

'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. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When 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.'

46. The evidence was that, at the material time covered by the Allegation, Ms Fleming was employed by ECC and BC, in each case, in a full-time capacity. Ms Fleming had confirmed that she had read the Code and applicable policies in relation to the holding of outside roles, whether paid or unpaid, by ECC employees. From this evidence, the panel considered that it was reasonable to infer that Ms Fleming had the knowledge, or means of knowledge, that she was under a duty to declare to ECC the extent of her full-time paid employment with BC.

47. Ms Fleming had not completed the 'opt out' form sent to her by Ms Lazzarotti. Ms Joseph's evidence was that the need for staff to complete declaration of interest forms annually was set out by her in an email in November 2020 to staff. This email would have been sent to Ms Fleming as a member of staff. When the matter was addressed with Ms Fleming, Ms Joseph stated that Ms Fleming provided her with various explanations for not completing the applicable form, which included that the form had not been sent to her and that she had not received it as she was not at work when it was sent.

48. Ms Joseph also made a written record, at her meeting with Ms Fleming on 22 February 2021, that Ms Fleming, following her disclosure that she had been concurrently working with BC, stated that she *'thought she would get away with it but it caught up with me.'*

49. On the basis of the evidence presented, the panel was satisfied that Ms Fleming's actions, which had resulted in ECC not knowing that she held down another full-time paid position with BC when there was a positive duty on Ms Fleming to disclose this fact, was not caused by inadvertence but was instead a deliberate act on Ms Fleming's part.

50. It was clear to the panel that ordinary, decent people would regard Ms Fleming's actions, which were deliberate and not as a result of inadvertence, as dishonest.

51. Accordingly, the panel found Particular 2 proved.

3. Between 22 February 2021 and 21 May 2021, you failed to inform the regulator, Social Work England, of Essex County Council's investigation into these matters.

52. In her written response in the course of these proceedings, Ms Fleming accepted that she had failed to inform Social Work England that she was the subject of an investigation by ECC in respect of these matters. She explained, *'this was not done on purpose. I was aware that Essex County Council was going to inform Social Work England and was waiting for next action.'*
53. As a registered social worker, Ms Fleming is obliged to adhere to Social Work England's professional standards. Standard 6.6 requires social workers to declare anything to Social Work England that might affect their fitness to practise. The panel noted the applicable ECC policy which stated that failing to make a disclosure in respect of an outside interest was a disciplinary offence. Ms Fleming was being investigated by her employer in respect of an allegation that she had dishonestly failed to declare a second full-time paid position. On that basis, the panel was satisfied that Ms Fleming was under a positive duty to report a possible fitness to practise issue to her regulatory body. The panel was of the view that it was no answer to that failure for Ms Fleming to assert, as she did in her written response, that she had not acted because she assumed that ECC would make the referral to Social Work England.
54. Accordingly, the panel found Particular 3 proved.

Finding and reasons on grounds:

Social Work England submissions

55. In light of having found the facts of the Allegation proved, Ms Steels submitted that Ms Fleming's actions amounted to misconduct. In consequence, to protect the public and to uphold the public interest, Ms Steels invited the panel to find that Ms Fleming's fitness to practise was currently impaired.

The approach of the panel

56. The panel paid careful regard to all the documentary evidence and the submission made by Ms Steels. The panel accepted the legal adviser's advice. During the course of that advice, the panel was referred to the cases of *Roylance v GMC* (No 2) [2000] 1 AC 311, *GMC v Meadow* [2007] 1 QB 462, *Cohen v GMC* [2008] EWHC 581 (Admin) and *CHRE v NMC and Grant* [2011] EWHC 927 (Admin) (*'Grant'*).
57. On the question of determining misconduct and impairment, the panel exercised its independent judgement. The panel reminded itself that misconduct was a separate and distinct concept from impairment. It adopted a two-stage approach. First, the panel considered whether the facts found proved amounted to misconduct. Second, and only where the facts found proved amounted to misconduct, the panel considered whether Ms Fleming's fitness to practise is currently impaired because of that misconduct.
58. Ms Fleming had been found by the panel to have acted dishonestly by not disclosing to her employer the extent of other paid full-time employment which she held with another employer. The matter came to light, not as a result of any disclosure on Ms Fleming's part, but as a result of a potential issue being flagged up to ECC by its Counter Fraud Team. Ms

Fleming had failed to inform her professional regulatory body in relation to the investigation being conducted into her actions by her employer when there was an unqualified duty on her part to do so. Ms Fleming had failed to disclose her full-time concurrent employment with BC to ECC for a period in excess of one year. In the panel's view, this was a prolonged period of time. Her failure to disclose her full-time employment was not simply by omission; Ms Fleming repeatedly made false statements about her employment with BC.

59. During the time covered by the Allegation, Ms Fleming was subject to the professional standards of the Health and Care Professions Council and thereafter, upon its creation, the professional standards of Social Work England.
60. The panel considered that, at the material time, Ms Fleming by her actions had breached the following professional standards:

HCPC Standards of Conduct Performance and Ethics (2016)

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

9.4 You must declare issues that might create conflicts of interest and make sure that they do not influence your judgement.

Social Work England Professional Standards

2.1 [I will] Be open, honest, reliable and fair.

2.7 [I will] Consider where conflicts of interest may arise, declare conflicts as early as possible and agree a course of action.

6.6 [I will] Declare to the appropriate authority and Social Work England anything that ... may affect my fitness to practise.

61. The evidence presented at the hearing and, in particular, the evidence given by Ms Joseph was that Ms Fleming's dishonest conduct by not declaring her concurrent employment with BC could have had a negative impact on Ms Fleming herself, on ECC's service users and could also have caused reputational damage to ECC. By failing to inform her regulator of the investigation into her actions, Ms Fleming risked compromising Social Work England's ability to protect the public.
62. In the panel's judgement, Ms Fleming had acted in a manner which had fallen significantly below the standards to be expected of a registered social worker. Accordingly, the panel was satisfied that Ms Fleming's actions, which were directly related to the discharge of her professional duties, were serious and amounted to misconduct.

Finding and reasons on current impairment:

63. In considering whether Ms Fleming's fitness to practise is currently impaired, the panel had regard to its findings in relation to misconduct.
64. In determining the issue as to current impairment of fitness to practise, the panel had regard to the following matters:
- The extent to which Ms Fleming had the skills, knowledge and character to practise her profession safely and effectively without restriction; and
 - The wider public interest, which included the need to promote and maintain public confidence in social workers in England and the need to promote and maintain proper professional standards for these social workers.
65. At the outset, the panel addressed the question as to whether Ms Fleming's misconduct was capable of remedy. The panel considered that Ms Fleming's misconduct, which included an attitudinal element in that she had acted dishonestly, would be difficult to remedy. However, with full insight and evidence of remediation, the panel was of the view that, in principle, Ms Fleming's conduct – including her dishonesty – was capable of remedy.
66. The panel next considered whether Ms Fleming's misconduct had, in fact, been remedied.
67. In her written response in the course of these proceedings, Ms Fleming stated, *'I do not regret keeping the two jobs as it was at a time when my services were most needed. It was a pandemic period.'* Further, in her written submissions, Ms Fleming stated, *'I worked very hard as a social worker for Essex Council and a very dedicated Support and care worker at Brent Council in the most challenging period of the Covid 19 pandemic. My actions did not interfere with either of my roles.'*
68. The panel noted that Ms Fleming, in the course of the local investigation and in the course of these regulatory proceedings, had also touched upon personal and family issues as being relevant in her decision to undertake concurrent employment with ECC and BC. While Ms Fleming had not provided the panel with evidence to support what she had outlined, nevertheless, the panel noted what Ms Fleming had stated about the difficult circumstances which had resulted in her decision to hold two full-time positions with ECC and BC simultaneously.
69. However, notwithstanding these personal issues, in the panel's view, there was an absence of a recognition on Ms Fleming's part as to how her actions could have given rise to concerns by her employer as to her ability to discharge her concurrent employment safely and effectively. There was also an absence of a recognition by Ms Fleming of the broader public protection and public interest concerns which arose as a result of her actions. Ms Fleming, in not notifying Social Work England as to the investigation to which she was subject, similarly failed to grasp the public protection and public interest reasons which required her to make such a notification.

70. Ms Fleming had accepted, in her written response, that she had acted dishonestly. However, in the panel's judgement, Ms Fleming's acceptance that she had acted dishonestly was partial and superficial. Ms Fleming, over a protracted period, had engaged in a series of dishonest acts and omissions which had the effect of not disclosing to ECC the full extent of her concurrent employment with BC. Ms Fleming had admitted her dishonesty, not as a result of a change of heart and a disclosure to her employer but rather as the result of the matter being raised with her by ECC. In the course of the local investigation and, in particular, during the meeting she had had with Ms Joseph on 22 February 2021, Ms Fleming was equivocal and evasive as to the extent of her involvement with BC. Rather than '*quickly*' correcting the false impression she had given during this meeting, as Ms Fleming had stated in her written response, Ms Joseph's evidence was that Ms Fleming's full admission as to her employment with BC came only after the hour-long meeting was being brought to a close by Ms Joseph.
71. Ms Fleming had demonstrated very limited insight into the seriousness of the regulatory concerns which underpinned the Allegation. Ms Fleming had not demonstrated any insight into the potential consequences of her actions on service users or on her relationships with colleagues. She had not placed any evidence of remediation or meaningful reflection before the panel in response to the regulatory concerns. The panel concluded that, in light of her very limited insight and the absence of remediation, there was a high risk that Ms Fleming would repeat her misconduct.
72. Accordingly, in the panel's judgement, a finding of current impairment was required for public protection.
73. The panel next considered whether a finding that Ms Fleming's fitness to practise was currently impaired was required on public interest grounds. The panel heard evidence from Ms Lazzarotti, Ms Joseph and Ms Molyneaux as to the risk of harm to service users and the reputational damage to her employer which could have been caused as a result of Ms Fleming's actions.
74. In light of its findings, the panel considered that a reasonable and well-informed member of the public would be troubled and concerned by Ms Fleming's conduct. The public is entitled to expect social workers to be honest and to put the interests of service users at the forefront of their decision making; Ms Fleming's actions fell seriously short of these expectations.
75. The panel was of the view that public trust and confidence in the social work profession would be significantly undermined if a finding of current impairment was not made, given the serious nature of Ms Fleming's misconduct, her very limited insight and the absence of any evidence of remediation. The panel concluded that a finding of current impairment of Ms Fleming's fitness to practise was also required to declare and uphold proper professional standards.
76. The panel concluded that a finding of current impairment was therefore required in the wider public interest.
77. The panel considered the formulation provided by Dame Janet Smith in her Fifth Report to the Shipman Inquiry, which was cited with approval by Cox J in *Grant*:

‘Do our findings of fact in respect of the [the Social Worker’s] misconduct, ... show that her fitness to practise is impaired in the sense that she:

Has in the past acted and/or is liable in the future to act so as to put a [service user] or [service users] at unwarranted risk of harm; and/or

Has in the past brought and/or is liable in the future to bring the [social work] profession into disrepute; and/or

Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the [social work] profession; and/or

Has in the past acted dishonestly and/or is liable to act dishonestly in the future.’

78. The panel was satisfied that limbs a, b, c and d were engaged in this case.

79. Accordingly, for the reasons given, the panel determined that Ms Fleming’s fitness to practise is currently impaired, on public protection and public interest grounds, by reason of her misconduct.

Decision and reasons on sanction:

80. Ms Steels made a submission to the panel as to what, if any, sanction should be imposed. She submitted that the only appropriate and proportionate sanction for the panel to impose would be a Removal Order.

81. The panel accepted the legal adviser’s advice on the approach to be adopted on the question of sanction and had regard to the Sanctions Guidance (updated 19 December 2022) (‘the Guidance’), published by Social Work England. The panel had careful regard to the documentary and oral evidence that had been presented at the hearing. The panel also carefully considered Ms Steels’ oral submission which it heard at the sanction stage of the proceedings.

82. At the outset, the panel considered the aggravating and mitigating factors.

83. The panel identified the following mitigating factors:

- Previous good history;
- Ms Fleming had made admissions to some degree in the course of the local investigation and in these proceedings. The admissions, however, were partial and equivocal;
- Limited engagement in the local investigation and these proceedings;
- Expression of regret. However, this was generalised and undirected; and
- There was some evidence, albeit unsupported, that Ms Fleming was managing difficult personal and family circumstances at the relevant time.

84. The panel identified the following aggravating factors:

- Breach of trust;
- Pattern of unacceptable behaviour;
- Lack of insight;
- Lack of remediation; and
- Risk of repetition

85. The panel then considered, in turn, the range of available sanctions, starting with the least restrictive.

No Further Action/ Advice

86. Having regard to its findings, the panel was of the view that concluding the case by taking no further action or issuing Ms Fleming with advice as to her future conduct would be insufficient to protect the public interest.

Warning

87. The panel noted that imposing a Warning on Ms Fleming's registration would not restrict her ability to practise as a social worker. The panel carefully considered the circumstances in respect of which it would be appropriate to impose a Warning. The panel's judgement was that Ms Fleming's misconduct was too serious for such a disposal and decided that a Warning would be insufficient to protect and uphold the public interest.

Conditions of Practice Order

88. The panel noted that the primary purpose of a Conditions of Practice Order was to protect the public while the social worker took any necessary steps to remediate their fitness to practise. The panel considered that a Conditions of Practice Order was inappropriate in a case, such as this one, which addressed an attitudinal issue, namely, Ms Fleming's dishonesty. In addition, the panel considered that Ms Fleming's misconduct was too serious for such a disposal and decided that a Conditions of Practice Order would be insufficient to protect and uphold the public interest.

Suspension Order

89. The panel had regard to paragraph 137 of the Guidance which states:

'Suspension may be appropriate where (all of the following):

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

90. The panel noted its findings in relation to the aggravating and mitigating factors, referred to above, and reminded itself that a Suspension Order is appropriate in cases where the registrant's misconduct, while serious, was not such as to be fundamentally incompatible with remaining on the Register.
91. The panel noted Ms Fleming's previous good history. It also had in mind Mr Atkinson's evidence that, in her role as a care and support worker at BC, Ms Fleming was well regarded.
92. Notwithstanding the matters weighing in Ms Fleming's favour, the panel could not lose sight of the seriousness of the misconduct in this case. The panel had in mind paragraphs 172 and 173 of the Guidance which states:
- '172. Honesty is key to good social work practice. Social workers are routinely trusted with access to private spaces (such as people's homes), and highly sensitive and confidential information (such as case notes).*
- 173. Other organisations also rely on the honesty and integrity of social workers when making important decisions about service users, their relatives and carers ... Because of this, dishonesty is likely to threaten public confidence in the social work profession. This is the case both in professional practice and in the social worker's private life.'*
93. Ms Fleming had been found to have acted dishonestly when, over a protracted period, she had concealed from her employer the full extent of her employment with another employer in a social care setting. By her actions, Ms Fleming had created a risk of harm. She had kept ECC and BC in the dark, for a period in excess of a year, as to the true extent of her employment. In so doing, Ms Fleming had deprived both employers of the opportunity to assess the risk to Ms Fleming and service users which could arise by reason of Ms Fleming holding down two full-time jobs in demanding social care environments. There was also a striking lack of appreciation on Ms Fleming's part as to the risk posed by her dishonest actions in relation to the public's trust and confidence in her employers and the social work profession.
94. The panel had found that Ms Fleming's insight into the seriousness of the regulatory concerns which underpinned the Allegation was self-focussed, partial and very limited. There was no evidence of reflection or remediation. The panel's professional judgement was that the risk of the misconduct being repeated was very high. This was informed by Ms Fleming's statement to Social Work England that she did not regret keeping two jobs because *'it was at a time when my services were most needed. It was a pandemic period.'* Ms Fleming showed no insight into the risks that her lack of transparency about working two full-time jobs during this period would have posed to two groups of vulnerable service users.
95. These factors, taken together with the extent of the departure from the standards to be expected of a registered social worker, led the panel to conclude that a Suspension Order was not an appropriate or proportionate response to the misconduct found in this case.

Removal Order

96. Social workers hold a privileged position which involves them caring for some of the most vulnerable members of society. They are entrusted to work autonomously and are expected to adhere to the highest professional standards. Ms Fleming had been found by the panel, over a protected period, to have engaged in a pattern of dishonest conduct which was deliberate and persistent. By her dishonest acts and omissions, she had concealed the true extent of her employment from two employers by whom she was employed concurrently. Her actions had given rise to a risk of harm and had the potential to undermine the public's trust in her employers and the social work profession. She had created a risk to the integrity of the system of professional regulation by failing to inform Social Work England of the investigation into her dishonest conduct when she was under an unequivocal duty to do so. As a result, the panel concluded that there had been a serious and fundamental departure from the standards to be expected of a registered social worker by Ms Fleming.
97. Ms Fleming's insight into the seriousness of the regulatory concerns, which included dishonesty, was very limited, partial and self-focussed. There was no evidence before the panel that Ms Fleming acknowledged, let alone accepted and understood, that her actions gave rise to serious public interest concerns. There was an absence of remediation, and, in the panel's judgement, there was a high risk of Ms Fleming's misconduct being repeated.
98. The panel considered that Ms Fleming's misconduct, taken together with her very limited insight and the absence of remediation, was such as to be incompatible with remaining on the Register. For these reasons, the panel considered that the only appropriate and proportionate sanction to impose, to protect the public and in the public interest, was a Removal Order.
99. The panel recognised the impact a Removal Order would have on Ms Fleming and took this into account. However, it considered that the need to protect the public and the public interest outweighed Ms Fleming's interests.

Interim order:

100. Ms Steels applied for an interim suspension order, for a period of 18 months, to cover the appeal period before the substantive order takes effect or, if an appeal is lodged, the period during which that appeal is disposed of, by hearing or otherwise.
101. The panel accepted the legal adviser's advice.
102. In light of its findings, the panel was satisfied that an interim order was necessary to protect the public and for wider public interest reasons, namely, to promote and maintain the public's confidence in social workers in England and also to promote and maintain proper professional standards for these social workers.
103. The panel concluded that an interim conditions of practice order would be incompatible with its findings and the reasons given by the panel for considering that a substantive Conditions of Practice Order was inappropriate in the circumstances of this case.

104. The panel therefore decided that an interim suspension order for a period of 18 months should be imposed on Ms Fleming's registration to cover the appeal period before the substantive order takes effect or, if an appeal is lodged, the period during which that appeal is disposed of, by hearing or otherwise.

Right of appeal:

105. Under Paragraph 16(1)(a) of Schedule 2 of the regulations, the social worker may appeal to the High Court against the decision of adjudicators:
- a. the decision of adjudicators:
 - i. to make an interim order, other than an interim order made at the same time as a final order under Paragraph 11(1)(b),
 - ii. not to revoke or vary such an order,
 - iii. to make a final order.
 - b. the decision of the regulator on review of an interim order, or a final order, other than a decision to revoke the order.
106. Under Paragraph 16(2) of Schedule 2 of the regulations an appeal must be filed before the end of the period of 28 days beginning with the day after the day on which the social worker is notified of the decision complained of.
107. Under Regulation 9(4) of the regulations this order may not be recorded until the expiry of the period within which an appeal against the order could be made, or where an appeal against the order has been made, before the appeal is withdrawn or otherwise finally disposed of.
108. This notice is served in accordance with Rules 44 and 45 of the Social Work England Fitness to Practice Rules 2019 (as amended).

Review of final orders:

109. Under Paragraph 15(1), 15(2) and 15(3) of Schedule 2 of the regulations:
- 15(1) The regulator must review a suspension order or a conditions of practice order, before its expiry
 - 15(2) The regulator may review a final order where new evidence relevant to the order has become available after the making of the order, or when requested to do so by the social worker
 - 15(3) A request by the social worker under sub-paragraph (2) must be made within such period as the regulator determines in rules made under Regulation 25(5), and a final order does not have effect until after the expiry of that period

110. Under Rule 16(aa) of the rules a social worker requesting a review of a final order under Paragraph 15 of Schedule 2 must make the request within 28 days of the day on which they are notified of the order.

The Professional Standards Authority:

111. Please note that in accordance with section 29 of the National Health Service Reform and Health Care Professions Act 2002, a final decision made by Social Work England's panel of adjudicators can be referred by the Professional Standards Authority ("the PSA") to the High Court. The PSA can refer this decision to the High Court if it considers that the decision is not sufficient for the protection of the public. Further information about PSA appeals can be found on their website at: <https://www.professionalstandards.org.uk/what-we-do/our-work-with-regulators/decisions-about-practitioners>.