

Social worker: Craig Kennett

Registration number: SW28578

Fitness to Practise: Final Order Review Meeting

Date of meeting: 02 August 2023

Meeting venue: Remote meeting

Final order being reviewed: Suspension order – expiring 16 September 2023

Hearing Outcome: Removal Order with effect from the expiry of the current order (16 September 2023)

Introduction and attendees:

1. This is the second review of a final suspension order originally imposed for a period of 12 months by a panel of adjudicators ('the final hearing panel') on 18 February 2022 pursuant to Paragraph 12(3) of Schedule 2 of the Social Workers Regulations 2018 (as amended) ('the regulations').
2. The final order was reviewed by a panel of adjudicators on 18 January 2023 ('the reviewing panel') under paragraph 15(1) of Schedule 2 of the regulations. The reviewing panel extended the suspension order by a further 6 months. The order expires on 16 September 2023.
3. Mr Kennett did not attend and was not represented.
4. Social Work England was represented by Capsticks LLP and their written submissions are set out within the notice of hearing letter.

Adjudicators	Role
Jacqueline Nicholson	Chair, lay adjudicator
Michael Branicki	Social worker adjudicator

Hearings team/Legal adviser	Role
Wallis Crump	Hearings officer
Khadija Rafiq	Hearings support officer
Clare Pattinson	Legal adviser

5. Throughout the proceedings the panel had the benefit of legal advice, which it applied, and relevant guidance documents issued by Social Work England to assist it. It had regard to relevant case law and complied with all relevant legislative provisions.

Service of notice:

6. Mr Kennett did not attend the proceedings and was not represented. The panel of adjudicators (hereafter 'the panel') had careful regard to the documents contained in the final order review service bundle:
 - a. A copy of the notice of the final hearing dated 30 June 2023 ('the notice of hearing') addressed to Mr Kennett at the postal and email addresses provided by him to Social Work England;

- b. An extract from the Social Work England Register detailing Mr Kennett's registered postal and email addresses;
 - c. A copy of a signed statement of service confirming that on 30 June 2023 the writer sent, by next day delivery service and email, to Mr Kennett's registered address the notice of review and related documents;
 - d. Confirmation from the Royal Mail Track and Trace service that they attempted, but did not complete, next day delivery on 4 July 2023 to Mr Kennett.
7. The panel was satisfied that the notice of review was sent to Mr Kennett at his registered postal and email addresses, as they appear on the Social Work England Register, on 30 June 2023. It found that service was effected by Social Work England in accordance with the requirements of rule 16 of the Social Work England (Fitness to Practise) Rules 2019 ('the rules').

Proceeding with the final order review as a meeting:

8. The notice of review hearing informed Mr Kennett that the review would take place as a meeting if he did not advise Social Work England by 4.00pm on 14 July 2023 that he wished the matter to proceed as a hearing. The notice of hearing also explained how Mr Kennett could provide submissions or make representations to the panel.
9. The panel received no information to suggest that Mr Kennett had responded to the notice of hearing. It was satisfied that, in the absence of any communication from Mr Kennett, it was fair and proportionate to proceed to determine the final order review as a meeting in accordance with the provisions of Rule 16(c) of the rules.

Review of the current order:

Final order panel decision:

10. The allegations found proved by the final hearing panel which resulted in the imposition of the final order were as follows:
- 1. *While employed as a social worker for West Sussex County Council, you:*
 - a. *failed to safeguard Child OBG during the period between 4 October 2018 and 11 October 2018, in that you did not take appropriate action to return him to his placement and/or prevent him from remaining in an unsafe environment;*
 - b. *sent inappropriate messages to Person F in January 2020.*
 - 2. *Your conduct at 1(b) above was sexually motivated.*
11. The above regulatory concerns were passed to Social Work England in relation to Mr Kennett on 21 November 2019 and 2 March 2020. Mr Kennett was employed by West Sussex County Council ('the Council') in a variety of roles from 15 March 2004 until 23 May 2020. The final hearing panel heard from 3 witnesses and Mr Kennett did not attend the

hearing. The final hearing panel was satisfied that the above regulatory concerns were proved and amounted to the statutory ground of impairment by way of misconduct. It concluded that Mr Kennett was impaired on both the public and private components of impairment as:

- a. Child OBG was a looked after child, who was at risk of harm when staying with his mother and her partner, that Mr Kennett did not remove and return to his placement;
- b. The comment made to Person F was inappropriate and may have led to more serious consequences;
- c. He made no apology, and expressed no remorse or regret:
 - i. In respect of Child OBG, he attempted to deflect responsibility to others in his disciplinary interview;
 - ii. In respect of Person F, he minimised the comment while acknowledging the inappropriateness of it, referring to it as a “*bad judgement call*”;
- d. He demonstrated no insight into the impact of his conduct on the service users concerned or the social work profession;
- e. He did not engage with the fitness to practise proceedings;
- f. Although his conduct was remediable, he had not attempted or undertaken any remediation and the final hearing panel expressed concerns about this willingness or ability to undertake meaningful remediation;
- g. There was a high risk of repetition of the misconduct given the lack of insight or remediation despite there being no previous regulatory findings
- h. Informed members of the public would be shocked if no finding of impairment was made in the circumstances, and profession standards would be compromised.

12. The final hearing panel determined a suspension order for a period of 12 months to be the appropriate sanction as:

- a. It was the minimum order necessary to protect the health, safety and well-being of service users and the public generally and to maintain public confidence and proper professional standards;
- b. Mr Kennett was an experienced social worker of good character and the public interest was for him to remediate his practice and return to social work;
- c. The final order panel had no information as to the reasons for Mr Kennett’s failure to develop insight or undertake remediation;

- d. Mr Kennett had not engaged with the regulatory proceedings;
- e. Suspension of any period longer than one year would risk de-skilling Mr Kennett.

Reviewing panel decision:

13. The reviewing panel had limited submissions from Mr Kennett, and concluded that he remained impaired on the public and private aspect of impairment as he did not appear to have reflected on, or shown any insight into, the failings identified by the final hearing panel. While he expressed some remorse for sending the text to Person F, he sought to minimise his actions, and concentrated on the effect of the regulatory process on himself. It found he gave no consideration to the impact his action may have on service users or the profession. It concluded he continued to demonstrate a lack of insight, had not acknowledged the final hearing panel findings and had not provided evidence of reflection or training which could remediate those failings. The reviewing panel was satisfied that the risk of repetition remained high and that a finding of impairment was required on both bases.
14. The reviewing panel was encouraged that Mr Kennett, by making submissions to it, appeared to be starting to engage with the proceedings. It determined he should be given a further period of suspension for 6 months to “*demonstrate insight and remediation*”. It recommended that he provide any future reviewing panel with evidence he had taken significant steps to facilitate a safe and effective return to social work, including evidence of reflection, training and testimonials or references.

Social Work England submissions:

15. The panel considered the written submissions of Social Work England, which stated:

“To date no evidence of insight or remediation has been received. Absent evidence of insight, remediation or active engagement with the regulatory process it is submitted that the Social Worker’s fitness to practise remains impaired as it was at the conclusion of the final hearing”.

Social Work England requested that the panel impose a removal order upon Mr Kennett given the lack of any evidence that there had been any remorse, remediation, reflection, training or development of insight in respect of the failings identified by the final order panel.

Social worker submissions:

16. Mr Kennett had been in correspondence with Social Work England since the last review hearing but did not provide any representations to the panel or provide any evidence of insight, remorse, remediation, reflection or training. Rather, he requested that he be allowed to voluntarily remove himself from the register and asked what would remain in the public record if he did so. Mr Kennett also reported working as a social worker, but then did

not respond to further requests by his regulator for confirmation as to his employment details.

Panel decision and reasons on current impairment:

17. In considering the question of current impairment, the panel undertook a comprehensive review of the final order in light of all of the information available to it. It took into account the decision of the previous panels. However, it 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'. 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.
18. The panel first considered whether Mr Kennett's fitness to practise remains impaired. It noted that Mr Kennett had not taken up the opportunity provided to him by the first reviewing panel to demonstrate remorse, reflection, remediation and insight. He in fact provided less information to this panel than he did to the first reviewing panel. The panel was satisfied that the regulatory failings identified by the final hearing panel are serious, and that there has been no action taken by Mr Kennett to address them and thereby change the profile of the risk of repetition. In view of this, the panel considered that Mr Kennett's fitness to practice remained impaired on both the public and private aspect of impairment. There was no information before this panel to allay the concerns identified by the final hearing panel or the first reviewing panel. Indeed, the panel was concerned that further time had elapsed since Mr Kennett had practised his profession, and there remained no information that he had made any attempt to remediate the identified and proven failings, or maintain his fitness to practice. Given Mr Kennett's intransigence in respect of providing information to the regulator as to his current fitness to practise, the panel could not be satisfied that he is fit to practice, and accordingly finds him impaired on the public and private aspect of impairment.

Decision and reasons:

19. Having found Mr Kennett's fitness to practise is currently impaired, the panel then considered what sanction it should impose in this case. The panel had regard to the submissions and information available to it, noting that Social Work England requested that Mr Kennett be removed from the register. It also considered the legislative provisions, relevant case law and guidance issued by Social Work England.
20. The panel was mindful that the purpose of any sanction is not to punish Mr Kennett 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 Mr Kennett's interests with the public interest, noting Mr Kennett submitted to the first reviewing panel that he felt he had been punished through loss of salary as a social worker. It considered whether the current suspension order should

be extended for a further period of time, as this would prevent Mr Kennett from practising during the suspension period.

21. The panel undertook a review of the regulatory concerns, and considered the aggravating and mitigating features of this case. When determining the appropriate level of sanction, there is an expectation that the panel ensure that the sanction is proportionate to the circumstances, protects the public in the least restrictive manner possible and takes account of the wider public interest, striking a proper balance between the interests of the social worker and the public. The identification of aggravating and mitigating features can aid panels in making a decision on sanction. Aggravating factors are features which increase the seriousness of the concerns and are likely to lead to stronger sanctions in order to protect the public, while mitigating factors do not excuse or justify poor conduct or competence, but can indicate a reduced ongoing risk posed to service user safety and therefore reduce the severity of the sanction required.
22. The panel considered that there were the following aggravating features in this case:
 - a. the lack of remorse, insight, remediation, reflection and training demonstrated by Mr Kennett;
 - b. the breaching of fundamental tenets of the profession by Mr Kennett in:
 - i. failing to safeguard Child OBG;
 - ii. failing to respect professional boundaries in respect of Person F;
 - c. the breach of trust by Mr Kennett in reaching out to Person F with a sexually motivated comment a decade after he ceased to be her social worker;
 - d. failure to engage to a meaningful extent in the regulatory proceedings;
 - e. the concern in relation to Person F was attitudinal in nature and involved the misuse of power.
23. The panel did consider mitigating features in this case which included Mr Kennett's personal circumstances at the time and also there were no previous concerns about his practice.
24. The panel considered the email from Mr Kennett, dated 23 January 2023, in which he enquired about voluntary removal from the register.
25. The panel reminded itself of Social Work England's sanction guidance and particularly paragraph 149, in which guidance is provided about the appropriateness of a removal order being imposed:

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

- *persistent lack of insight into the seriousness of their actions or consequences*
- *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)*

26. Whilst satisfied that a further period of suspension would meet the overarching objective of Social Work England to protect the public and promote the wider public interest by restricting Mr Kennett from practising, the panel considered that a further period of suspension was not appropriate given Mr Kennett's apparent lack of desire to address the professional failings identified by the final order panel and allay the regulatory concerns.
27. The panel was mindful that registered professionals are obliged to engage with their regulator, which Mr Kennett has not done, despite prompting from the previous review panel. They are obliged to maintain their fitness to practise and maintain confidence in the profession, which Mr Kennett appears also not to have done.
28. The panel was satisfied it could consider imposing a removal order as Mr Kennett's fitness to practise was originally found impaired on the basis of misconduct. It was conscious that a removal order is a sanction of last resort. However, having undertaken a thorough review of all of the circumstances of this case, the panel was of the view the proportionate and appropriate action to take at this time would be to remove Mr Kennett from the Social Work England Register. Accordingly, the panel decided to impose a removal order.

Right of appeal:

29. 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.
30. 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.
31. 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.
32. This notice is served in accordance with Rules 44 and 45 of the Fitness to Practise Rules 2019 (as amended).

The Professional Standards Authority

33. 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>