

Social worker: Taymah Henderson
Registration number: SW109304
Fitness to Practise
Final Order Review meeting

Date of meeting: 15 September 2023

meeting venue: Remote meeting

Final order being reviewed:
suspension order – (expiring 27 October 2023)

Hearing Outcome: Impose a new order namely a removal order with effect
from the expiry of the current order

Introduction and attendees:

1. This is the first review of a final suspension order originally imposed for 12 months by a panel of adjudicators on 29 September 2022.
2. Ms Tamayah Henderson 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
Karen McArthur	Chair
Sarah Redmond	Social worker adjudicator

Hearings team/Legal adviser	Role
Paul Harris and Paige Swallow	Hearings officer
Kathryn Tinsley	Hearing support officer
Gerard Coll	Legal adviser

Service of notice:

4. Ms Tamayah Henderson did not attend and was not represented. The panel of adjudicators (the panel) observed that notice of this hearing was sent to Ms Henderson by email to an address provided by Ms Henderson, namely their registered email address as it appears on the Social Work England Register.
5. 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 27 August 2023 and addressed to Ms Henderson at their email address which they provided to Social Work England;
 - An extract from the Social Work England Register as of 27 August 2023 detailing Ms Henderson's registered email address;
 - A copy of a signed statement of service, on behalf of Social Work England, confirming that on 27 August 2023 the writer sent by email to Ms Henderson at the address referred to above: notice of hearing and related documents.
6. The panel accepted the advice of the legal adviser in relation to service of notice.

7. Having had regard to Rules 16 and 44 of the 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 this hearing had been served on Ms Henderson in accordance with the rules.

Proceeding with the final order review as a meeting:

8. The notice of final order review informed Ms Henderson 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 1 September 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.”

9. The panel received no information to suggest that Ms Henderson had responded to the notice of final order review.
10. The panel accepted the advice of the legal adviser with regard to Rule 16(c) of the Fitness to Practise Rules 2019 (as amended) which provides:

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

12. This final order review hearing is taking place under Paragraph 15(1) of Schedule 2 of The Social Workers Regulations 2018 (as amended) and Social Work England’s Fitness to Practise Rules 2019 (as amended).
13. The current order is due to expire at the end of 27 October 2023.

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

14. All of the allegations were found proved, as follows:

1.

a. Between around July 2016 and June 2017, failed to record and/or undertake statutory visits every 4 weeks to the following Children in Need:

i. Service User 3

ii. Service User 8

b. Between around July 2016 and June 2017, failed to record and/or undertake statutory visits every 6 weeks to the following Looked After Children:

iii. Service User 2

iv. Service User 4

v. Service User 5

vi. Service User 6

vii. Service User 7

2. In the case of Service User 8, on around 1 August 2016 did not coordinate a Team Around the Child ("TAC") Meeting within a reasonable timeframe.

3. In the case of Service User 6, did not complete and/or record an updated assessment five working days before a LAC Review on 3 April 2017.

4. In the case of Service User 2, on or around 6 January 2017, did not complete a referral to the Child and Adolescent Mental Health Service and/or coordinate a professionals meeting.

5. In the case of Service User 5:

a. Did not complete and/or record an updated assessment in a timely manner before a LAC review on 13 January 2017

b. On or around 8 November 2016, did not complete a later life letter and/or life story book in a timely manner.

6. The matters set out in paragraphs 1-5 constitute misconduct and/or lack of competence.

Your fitness to practise is impaired by reason of your misconduct and/or lack of competence.

The final hearing panel on 29 September 2022 determined the following with regard to impairment:

15. '[The panel] considered that there were clear and serious failings by the social worker which included an instance where her conduct may have caused serious and avoidable harm to a

service user. It considered her failures were a breach of three of the criteria referred to in CHRE v NMC & Grant.

16. *The panel considered whether the failures of the social worker were remediable. It concluded that they were in principle but noted that she had been subject to a performance action plan during her employment with the Council which had not resulted in improvement and that the social worker had thereafter been dismissed by her employer. The panel noted that the social worker had disengaged from her regulator and had not communicated with it since July 2021. As a result, there was no information before the panel as to the social worker's present circumstances, whether she had any intention of returning to social work or of any training or remedial activity. It concluded that if her deficiencies were remediable there was nothing before it to indicate they had been remedied or that the social worker had demonstrated insight into her deficiencies. The panel concluded therefore that there was a significant risk of repetition of the misconduct it had identified and that the fitness to practise of the social worker was currently impaired.*
17. *The panel considered whether public confidence in the social work profession would be undermined if no finding of impairment was found. It concluded that the public would be concerned if there was no finding of impairment given the serious nature of the deficiencies found by the panel and that a finding of impairment was necessary in the public interest.'*

The final hearing panel on 29 September 2022 determined the following with regard to sanction:

18. The panel took full account of the submissions made on behalf of Social Work England and of any factors in favour of the social worker. It accepted the advice of the legal adviser.
19. The panel concluded that the time which has elapsed since the events occurred and the stage of her career the social worker had reached were mitigating factors in her favour. However, it noted that the social worker had been supervised closely during her time in practice and had received numerous examples of support. It found that the fundamental breaches of basic tenets of social work and the lack of evidence of insight, remediation or remorse were aggravating factors.
20. The panel considered that taking no action, providing advice, or issuing a warning to the social worker were insufficient to protect the public, bearing in mind the serious breaches of basic requirements of social work it had identified which had exposed service users to risk and the need to protect the public.
21. The panel then considered whether imposing conditions of practice on the social worker was appropriate.
22. The panel noted the relevant Social Work England guidance:

"The primary purpose of conditions of practice orders is to protect the public while the social worker takes any necessary steps to remediate their fitness to practise. In addition

to any protective restrictions, the conditions may include remediation steps that the social worker must take as a minimum in order to regain fitness to practise, such as successful completion of relevant education or training.”

23. The panel concluded that conditions would be unworkable, given the lack of engagement of the social worker with her regulator and the seriousness of its findings. The panel had no information as to any remedial action taken by the social worker and no indication of insight by her into the seriousness of her failings.

24. The panel then considered whether a period of suspension was appropriate. It noted the relevant Social Work England guidance on suspension:

“Suspension is appropriate where no workable conditions can be formulated that can protect the public or the wider public interest, but where the case falls short of requiring removal from the register or where removal is not an option.”

25. The panel concluded that suspension was an appropriate and proportionate sanction which would both protect the public and provide an opportunity for the social worker to take steps to address her deficiencies and to take some remedial action if she wanted to return to social work. It considered that suspension for twelve months was appropriate in those circumstances. It considered that despite the seriousness of its findings, removal from the register would be disproportionate, as the social worker’s failures were at least in principle remediable and that suspension was sufficient to protect the public.

26. The panel therefore directs an order of suspension for twelve months with a review of the order before the end of that period. It considers that a reviewing panel would be assisted by a written piece from the social worker reflecting on the findings of the panel, together with some evidence of Continuing Professional Development or training and testimonials from persons not connected with social work.

Social Work England submissions:

27. The submissions from Social Work England were:

Social Work England will invite the panel to make a Removal Order in this case, on the grounds that it is necessary to protect the public, and is in the public interest, to uphold public confidence in the profession.

The final hearing panel imposed a 12 month Suspension Order, having concluded that suspension “would both protect the public and provide an opportunity for the social worker to take steps to address her deficiencies and to take some remedial action if she wanted to return to social work”.

The Panel considered that a Reviewing Panel would be assisted by:

- a written piece from the social worker reflecting on the findings of the panel;
- evidence of Continuing Professional Development or training;
- testimonials from persons not connected with social work.

The social worker has not engaged with Social Work England since the suspension order was imposed and has not provided any of the above information or evidence that was recommended by the final hearing panel. As such, she has not provided any evidence of developed learning or insight. She has been written to (via email) on three occasions about the Order and the recommendations but has not replied.

The social worker did not engage with the Final Hearing neither (the final hearing panel noting that the social worker had not engaged since July 2021), and as such, the social worker's lack of response to the Case Review Team is evidence of ongoing disengagement that has spanned a significant period.

There is no evidence to indicate that the social worker wishes to return to social work practice.

Social worker submissions:

28. There were no submissions by or on behalf of Ms Henderson.

Panel decision and reasons on current impairment:

29. In considering the question of current impairment, the panel undertook a comprehensive review of the final order in light of the current circumstances. It took into account the decision of the previous panel. However, it has exercised its own judgement in relation to the question of current impairment. The panel also took into account Social Work England's 'Impairment and sanctions guidance'.
30. The panel had regard to all of the documentation before it, including the decision and reasons of the original panel. The panel had no new information from or on behalf of Ms Henderson. The panel also took account of the written submissions made by Social Work England.
31. The panel 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.
32. The panel recognised that the onus was on Ms Henderson to satisfy the panel that she is no longer impaired as at today's date. The panel had to consider what evidence of insight had been provided by or on behalf of Ms Henderson. Insight has three aspects tied to Social Work England's statutory objective of protecting the public, which can be summarised under the headings:

- Impact on service users' safety and risk
- Impact on public trust and confidence
- Impact on the declaring and upholding of standards

33. In *Abrahaem v General Medical Council* [2008] EWHC 183 (Admin) at Paragraph 23 the court said that '...the review has to consider whether all the concerns raised in the original finding of impairment through misconduct have been sufficiently addressed to the panel's satisfaction. In practical terms there is a persuasive burden on the practitioner at a review to demonstrate that he or she has fully acknowledged why past professional performance was deficient and through insight, application, education, supervision, or other achievement sufficiently addressed the past impairments.'

34. The Supreme Court said in *Khan v GPhC* [2017] 1 WLR 169 SC (Sc) that

'The Committee will also need to satisfy itself that the registrant has fully appreciated the seriousness of the relevant breach(es), has not committed any further breaches of the Council's standards of conduct, ethics, and performance, and has maintained their skills and knowledge to date, and that the public will not be placed at risk by resumption of practice or by the imposition of conditional registration. Lord Wilson said:

The focus of a review is upon the current fitness of the registrant to resume practice, judged in the light of what he has, or has not, achieved since the date of the suspension. The review committee will note the particular concerns articulated by the original committee and seek to discern what steps, if any, the registrant has taken to allay them during the period of his suspension. The original committee will have found that his fitness to practise was impaired. The review committee asks: "Does his fitness to practise remain impaired"?

It is also noteworthy that, in the fifth report of the Shipman Inquiry, 9 December 2004 (Cm 6394), Dame Janet Smith, Chairman, when referring to reviews under section 35D(5) of the Medical Act 1983, stated at Paragraph 27.267: "Review hearings are extremely important. They are the "teeth" behind the sanctions other than erasure and should focus the doctor's mind on the need to undertake any necessary remediation.'

35. The panel therefore should be alive to any material change in position since the last hearing which addresses the risks to the objectives.

36. The panel first considered whether Ms Henderson's fitness to practise remains impaired.

37. The panel found that there was no evidence that Ms Henderson's insight into the seriousness of her misconduct had developed since the final suspension order was imposed. Ms Henderson has not engaged with Social Work England in any way. She has not responded to three email invitations to address the final hearing panel's suggestions.

38. The panel was satisfied that in the absence of any response, the effect of Ms Henderson's non-engagement has been to further de-skill her professionally. She has not demonstrated that she is motivated to take the necessary steps to work towards a return to unrestricted practice.

39. The panel found no evidence that Ms Henderson understands in a meaningful way that what she did was wrong. In view of Ms Henderson's absence of evidence of insight, the panel concluded that there remains a risk that Ms Henderson would repeat similar misconduct and that service users would be exposed to the risk of harm. Her lack of competence remains. The panel therefore concluded that a finding of current impairment is required for the protection of the public.
40. A finding of current impairment is also required to maintain public confidence in the profession and to uphold the required standards for social workers. A well-informed member of the public would be concerned that Ms Henderson has not demonstrated any sufficient level of insight, that she has not provided any evidence of engagement for this review panel, and that, partly as a consequence of further erosion of her professional skills there remains a risk of repetition of similar misconduct.

Decision and reasons:

41. Having found that Ms Henderson's fitness to practise is currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel had regard to the submissions made by Social Work England and accepted the advice of the legal adviser.
42. The panel was mindful that the purpose of any sanction is not to punish Ms Henderson, 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 Henderson's interests with the public interest.

Impose a new order namely removal order with effect from the expiry of the current order:

Removal order

43. The panel was satisfied it could consider that a removal order was available to the panel as Ms Henderson's fitness to practise was originally found impaired partly on the basis of misconduct which is the first of the grounds as set out in regulation 25(2)(a), (c), (d), (f) and (g).
44. The panel noted that a removal order is a sanction of last resort where there is no other means of protecting the public or the wider public interest. The panel took the view that a removal order would be appropriate because having discussed each available sanction in increasing order of restrictiveness, no other order was sufficient to protect the public in all aspects of the statutory objective.
45. The panel considered that taking no action, providing advice, or issuing a warning to the Ms Henderson were all insufficient to protect the public, bearing in mind the serious breaches

of basic requirements of social work it had identified which had exposed service users to risk and the need to protect the public.

46. The panel then considered whether imposing conditions of practice on the social worker was appropriate.

47. The panel noted the impairment and sanctions guidance last updated 19 December 2022. The guidance in relation to conditions of practice included that:

“The primary purpose of conditions of practice orders is to protect the public while the social worker takes any necessary steps to remediate their fitness to practise. In addition to any protective restrictions, the conditions may include remediation steps that the social worker must take as a minimum in order to regain fitness to practise, such as successful completion of relevant education or training.”

48. The panel concluded that conditions would be unworkable, given the sustained and complete lack of engagement by Ms Henderson with Social Work England.

49. The panel then considered whether a period of suspension was appropriate. It noted the relevant Social Work England guidance on suspension which provided that two conditions ought to be satisfied in concluding that a suspension order was appropriate and proportionate:

- the decision makers cannot formulate workable conditions to protect the public or the wider public interest
- the case falls short of requiring removal from the register (or where removal is not an option)

50. The panel concluded that suspension was, in principle, an appropriate and proportionate sanction which would both protect the public and provide an opportunity for the social worker to take steps to address her deficiencies and to take some remedial action if she wanted to return to social work. However, Ms Henderson has already allowed a year to elapse without providing any evidence that she wished to, or was capable of, committing herself to remediation, training, further education, or any other practical steps which would aim at her return to unrestricted practice in due course.

51. The panel considered that Ms Henderson’s inaction and silence since the final order of suspension was imposed had resulted in an increased risk to the public. Ms Henderson’s professional skills have been further eroded. The reasonable and informed member of the public is likely to be troubled by her attitude towards remediation. In all of these circumstances, the panel concluded that a further period of suspension was unlikely to support public trust and confidence in the profession or Social Work England.

52. The guidance, at Paragraph 148, informs panels that:

A removal order must be made where the decision makers conclude that no other outcome would be enough to (do one or more of the following):

- protect the public
- maintain confidence in the profession
- maintain proper professional standards for social workers in England

53. The panel decided that, for the reasons set out above, no other order would be enough to meet any of the objectives identified in the guidance.

54. Accordingly, the panel imposed a removal order which has the effect that Ms Henderson's name will be removed from the register.

Right of appeal:

55. 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:

1. to make an interim order, other than an interim order made at the same time as a final order under Paragraph 11(1)(b),
2. not to revoke or vary such an order,
3. 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.

56. 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.

57. 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.

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

Review of final orders:

59. 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).

60. 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

61. 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>