

Social worker: Simon Philip Leach
Registration number: SW33306
Fitness to Practise
Final Order Review meeting

Date of meeting: 27 March 2024

meeting venue: Remote meeting

Final order being reviewed: Suspension order – (expiring 11 May 2024)

Hearing Outcome: Impose a new order namely 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 a period of 9 months by a panel of adjudicators on 14 July 2023.
2. Mr Leach 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
John Walsh	Chair
Samuel Ana-Amdingo	Social worker adjudicator

Hearings team/Legal adviser	Role
Tom Stoker	Hearings officer
Kathryn Tinsley	Hearings support officer
Scott McDonnell	Legal adviser

Service of notice:

4. Mr Leach did not attend and was not represented . The panel of adjudicators (hereafter “the panel”) noted within the service bundle provided to it that notice of this hearing was sent to Mr Leach by email to an email address provided by Mr Leach (namely his registered 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 order review hearing dated 26 February 2024 and addressed to Mr Leach at his email address which he provided to Social Work England
 - An extract from the Social Work England Register as at 26 February 2024 detailing Mr Leach’s registered email address;
 - A copy of a signed statement of service, on behalf of Social Work England, confirming that on 26 February 2024 the writer sent by email to Mr Leach 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 Rule 44 of the Social Work England 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 Mr Leach in accordance with Rules.

Proceeding with the final order review as a meeting:

8. The notice of final order review informed Mr Leach 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 11 March 2024. 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 Mr Leach had responded to the notice of final order review. The panel noted that Mr Leach had not attended the final hearing that took place between 10 and 14 July 2023. The panel also noted that the last contact Social Work England had received from him was in November 2021, whereby he had indicated that he had no interest in engaging with Social Work England as he had effectively retired.
10. The panel heard and 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 11 May 2024.
14. The panel referred to the documents provided for the meeting, namely the hearing bundle (105 pages) and the service bundle (10 pages).

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

15. *Whilst registered as a social worker and employed by Suffolk County Council:*

1. *In/around December 2020 you rehomed Service User A's dog:*
 - 1.2 *without a completed mental capacity assessment to determine whether Service User A had capacity to make decisions regarding their dog*
2. *You provided misleading information about the status of Service User A's dog in that:*
 - 2.1 *On/around 22 December 2020 you informed Service User A that their dog was dead without knowing this to be true;*
 - 2.2 *On/around 8 March 2021 you informed Person 1 that your "bosses" had told you to remove Service User A's dog when they had not.*
3. *On/around 30 December 2020 you provided Service User A with your own dog's ashes informing her that they were from the cremation of her dog.*
4. *Your behaviour at paragraphs 2.1 and/ or 2.2 and / or 3 was dishonest in that you:*
 - 4.1 *Informed Service User A that their dog had died when you did not believe this to be true*
 - 4.2 *Knowingly gave Service User A ashes from your deceased dog with the intention of them believing they were from their deceased dog*
 - 4.3 *Informed Person 1 that you had been told by your bosses to remove Service User A's dog when you knew that this was not true*
5. *On/ around 8 March 2021 you failed to treat information about Service User A in a sensitive and confidential way by sharing it with the director of a registered animal charity, namely Person 1*

The final hearing panel on 14 July 2023 determined the following with regard to impairment:

16. *"The panel considered whether the misconduct was capable of remediation. It acknowledged that Mr Leach's misconduct had occurred around two and a half years before and related to a relatively discrete set of circumstances. Specifically, in relation to the failure to treat information confidentially, the panel noted that Mr Leach had accepted that he breached confidentiality, albeit he had sought to justify it. Nevertheless, the panel considered that it was capable of remediation, potentially through training, reading and reflection, in order to develop his understanding.*
17. *In relation to the dishonesty, the panel recognised that dishonesty was considered difficult to remedy because it often involved a character trait, so it would be challenging to evidence remediation. The panel considered that at the time, before any internal investigation had started, Mr Leach acknowledged his actions in the email to NR, dated 8 March 2021. In that email Mr Leach described the challenging circumstances of Service User A's case and the pressure of it on him, but added:*
18. *"[Regarding his decision to give Service User A his dog's ashes he described this as] an act of stupidity and not thought through, and for which I apologise wholeheartedly...*

19. *...I remain a registered social worker accountable for my own practice and take full responsibility for my actions and omissions.*
20. *I have clearly come up short in that regard and should have had more diligence with regards to what happened next when he [the dog] was handed on."*
21. *The panel considered that there were indications that Mr Leach understood the seriousness of his actions and had expressed remorse. In light of this, the panel concluded that in these particular circumstances, his dishonesty was capable of remediation, potentially through the development of his insight.*
22. *The panel went on to consider whether Mr Leach's misconduct had, in fact, been remedied. It considered that at the time he had taken steps to acknowledge his actions, expressed remorse and there were indications he understood the seriousness of his actions. The panel noted that Mr Leach had cooperated with the Council's internal investigation and had been engaging with Social Work England up until the time at which an interim suspension order was imposed upon him on 29 September 2021. In his response to Social Work England of 2 September 2021, he included a copy of his appeal letter to the Council, dated 4 July 2021, which confirmed that he was "prepared to submit to all remedial actions necessary to regain that trust." Whilst the panel acknowledged the duty on a social worker to engage with his regulator, it considered that in this case, Mr Leach had been under considerable personal and health challenges and had stepped away from Social Work England's investigation to concentrate on those.*
23. *The difficulty for the panel was that it had no recent evidence of the development of Mr Leach's insight or remediation. There was an absence of evidence before the panel to demonstrate that he had reflected upon his misconduct, particularly in respect of the distress it had caused to Service User A as well as the impact of his dishonesty and breach of confidentiality on the reputation of the profession. In the absence of such evidence, the panel was unable to rule out the risk of repetition. Accordingly, the panel found Mr Leach's fitness to practise to be impaired on the personal element.*
24. *The panel was mindful of the importance of the public interest element, in particular the need to promote and maintain public confidence in the social work profession as well as to declare and uphold proper standards of conduct and behaviour. The panel considered that Mr Leach had in the past caused emotional harm to Service User A; had brought the profession into disrepute; and had breached fundamental tenets of the profession. Given that honesty and maintaining confidentiality are such fundamental aspects of the social work profession, the panel considered whether Mr Leach's misconduct would undermine public confidence in the profession if no finding of impairment were made.*
25. *The panel understood that it is paramount that the public is able to trust the honesty of social workers and know that they will respect the confidentiality of highly sensitive information which they learn in the course of their role. In light of this, the panel concluded that public confidence in the profession would be undermined if no finding of current impairment were made in the circumstances of this case. Accordingly, the panel concluded that Mr Leach's fitness to practise is impaired on the public element."*

The final hearing panel on 14 July 2023 determined the following with regard to sanction:

26. *“Before considering the individual options open to the panel in respect of sanction, it considered the relevant mitigating and aggravating factors in this case with reference to the Guidance.*

27. *The panel considered the following to be mitigating factors:*

Mr Leach had a previously unblemished 30 year career and there was positive evidence from social work colleagues that he was a well-respected and competent social worker;

Mr Leach had been working in a challenging work environment and there was a lack of clarity around his role in respect of Service User A;

The misconduct related to a discrete set of circumstances involving one service user;

Mr Leach’s misconduct had arisen out of attempting to be supportive as opposed to being for any reasons of financial or personal gain;

It was Mr Leach who disclosed what he had done to his manager and he had fully cooperated with the Council’s internal investigation;

Mr Leach was under difficult health and personal circumstances at the time.

28. *The panel considered the following to be aggravating factors:*

Service User A’s vulnerability and Mr Leach’s knowledge of it;

The dishonesty involved a deliberate action on Mr Leach’s part, which had an element of planning to it and was done in a bid to bolster his initial lie to Service User A that the dog had died;

Service User A had been caused emotional distress;

The breach of confidentiality involved sharing sensitive information about Service User A’s childhood and personal circumstances.

29. *The panel noted the potential aggravating factors set out in the Guidance included lack of insight and remediation. Whilst the panel recognised that Mr Leach had not remedied his misconduct, it considered that his decision to step away from Social Work England’s investigation due to his health and personal circumstances had inhibited his development of insight and remediation and so the panel did not consider the lack of insight and remediation to be an aggravating factor in this particular case.*

30. *The panel first considered whether a sanction was necessary. In light of its finding on impairment, the panel was of the view that a sanction was required, given the past dishonesty and breach of confidentiality and that the panel had not been able to rule out a risk of repetition. The panel concluded that taking no action would send the wrong message to the public.*

31. *The panel next considered whether to issue advice or impose a warning. The panel bore in mind its findings at the impairment stage where it considered that the risk of repetition remained because Mr Leach had not provided any recent evidence to demonstrate that his insight had developed sufficiently to reduce that risk.*
32. *The panel was mindful that Mr Leach's misconduct involved breaching two fundamental aspects of social work, namely honesty and maintaining confidentiality. Having regard to the case of Bolton v Law Society, as referenced in the Guidance, the panel was of the view that neither advice or a warning would be sufficient to protect and promote public confidence in the profession or to affirm the importance of upholding professional standards.*
33. *The panel next considered whether a conditions of practice order may be the appropriate and proportionate response. Given the discrete set of circumstances of the misconduct and challenging work environment in which it had arisen, it appeared to the panel that conditions might potentially be a sufficient sanction. The panel was mindful that any conditions would need to be workable, proportionate and measurable. It was of the view that a key consideration in this case was workability and specifically whether workable conditions could be devised to address both aspects of the misconduct.*
34. *The panel concluded that, in light of Mr Leach's lack of engagement since September 2021, having stepped back from Social Work England's investigation, conditions would not be workable at this time. Although the panel noted the willingness expressed by Mr Leach in July 2021 to take remedial action to regain trust, his subsequent correspondence in November 2021 indicated that he had essentially retired from social work due to his health. In all the circumstances, the panel concluded that a conditions of practice order was not workable and so was not the appropriate or proportionate response.*
35. *The panel next considered whether a suspension order may be the appropriate and proportionate response. The panel agreed with the observations of Mr East to the effect that firstly, a period of suspension would afford Mr Leach the opportunity to demonstrate insight and remediation, given that the panel had considered the misconduct to be capable of remediation.*
36. *Secondly, it would offer protection to the public, given the risk of repetition, whilst remedial steps were being undertaken. Thirdly, it would send a clear message to the public that dishonesty and breaching confidentiality would not be tolerated and it would act to uphold standards. The panel concluded that a suspension order was appropriate and proportionate in the circumstances of the case, in that would reflect the seriousness of the misconduct so as to maintain public confidence and uphold professional standards, and it would also afford Mr Leach a pathway back to social work, should he wish to take it.*
37. *The panel was of the view that a removal order would be disproportionate and so not appropriate in the circumstances of this case. The panel reached this view in light of the challenging work circumstances in which Mr Leach was operating at the time and the indication of Mr Leach's remorse and an understanding of the seriousness of his actions before he disengaged from the process. The panel also considered that it was appropriate to*

afford him an opportunity to return to social work, given how well-regarded and experienced a social worker he had been.

38. *The panel was of the view that a period of 9 months was sufficient to reflect the nature of the case, as well as to afford Mr Leach a realistic period of time in which to re-engage, reflect and remediate his misconduct, should he take the opportunity to do so.*
39. *The panel decided to follow the Guidance and suggest recommendations for Mr Leach which may assist him in evidencing his development of insight and remediation for when the suspension order comes to be reviewed shortly before its expiry. The panel considered that a reviewing panel may be assisted by the following:*

Mr Leach's re-engagement with Social Work England;

A reflective piece in respect of the case management of Service User A's case, and in particular the decisions he made regarding her dog and his understanding of the impact of them on her and on the reputation of the social work profession;

Evidence of successful completion of any training undertaken by Mr Leach to familiarise himself with the General Data Protection Principles (GDPR) and their practical application;

Evidence of any relevant reading around the subjects of professional ethics and confidentiality;

Evidence of any wider professional learning and steps to keep his knowledge up to date, given that Mr Leach has been out of practice for around two years."

Social Work England submissions:

40. The panel read submissions from Capsticks LLP, which invited the Panel to extend the existing Suspension Order by a further period of 6 months. Capsticks LLP submitted that;

"The Social Worker has not engaged with the Case Review Team since the Final Hearing, and has not provided any evidence of engagement with the recommendations made by the Final Hearing Panel. In the absence of any evidence of insight or remediation, the Social Worker's fitness to practise remains impaired as at the Final Hearing.

Social Work England consider that the Social Worker should be afforded a final opportunity to engage, and therefore invite the Panel to extend the Suspension Order for a period of 6 months. If the Panel are minded to extend the Order for a period of 6 months, and the Social Worker does not engage within that period, then Social Work England will seek a Removal Order at the next review."

Social worker submissions:

41. Mr Leach did not provide any written submissions.

Panel decision and reasons on current impairment:

42. 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'.

43. The panel had regard to all of the documentation before it, including the decision and reasons of the original panel. The panel also took account of the written submissions made by Capsticks LLP on behalf of Social Work England.
44. The panel heard and accepted the advice of the legal adviser. The panel was reminded that a social worker's fitness to practise is impaired if they pose a risk to public safety, or if their conduct or performance undermines the confidence the public is entitled to place in all social workers in England. A social worker's fitness to practise may also be impaired if their actions make it necessary to send a public message about the standards expected of social workers.
45. If the panel decided that Mr Leach's practice is currently impaired then it should then consider what sanctions are available and refer to Social Work England's "Sanctions Guidance". The panel must start from the least restrictive sanction. Insight and remediation are important factors.
46. The panel first considered whether Mr Leach's fitness to practise remains impaired.
47. The panel noted that the final hearing panel had made the suspension order in light of the serious misconduct of Mr Leach relating to a number of allegations.
48. The panel also noted that Mr Leach had not acted upon any of the recommendations of the final hearing panel and as such this panel had no evidence of insight or remediation by him and in particular since the final hearing.
49. The panel was concerned that Mr Leach had been de-skilled as he had not been practising since 2021 and he had not provided any evidence of professional learning to this panel as recommended by the final hearing panel.
50. Having considered all of the evidence and submissions by Capsticks LLP the panel decided that Mr Leach's practice remains currently impaired. This was due to the fact that he had failed to demonstrate insight or remediation and therefore Mr Leach continued to pose a risk to public safety.

Decision and reasons:

51. Having determined that Mr Leach's fitness to practise is currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel had regard to the submissions made along with all the information and accepted the advice of the legal adviser.
52. The panel considered the written submissions made by Capsticks LLP on behalf of Social Work England, during which they invited the panel to consider imposing a further suspension order. The panel also took into account the 'Impairment and sanctions guidance' published by Social Work England.

53. The panel was mindful that the purpose of any sanction is not to punish Mr Leach, 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 Leach's interests with the public interest.

No action, advice or warning

54. The panel noted that none of these measures would restrict Mr Leach's ability to practise. As such they were not appropriate or sufficient to address the concerns raised due to the nature and seriousness of Mr Leach's impairment which has not yet been remedied.

55. Furthermore, none would be sufficient to protect the public, maintain public confidence and uphold the reputation of the profession.

Conditions of Practice Order

56. The panel went on to consider a conditions of practice order. The panel took the view that there are no practical or workable conditions that could be applied noting that Mr Leach had failed to engage with these proceedings for a considerable period of time and the panel had no confidence that Mr Leach would comply with any conditions of practice. In addition Mr Leach had failed to demonstrate any insight or remediation and the facts found proved by the final hearing panel related to dishonesty.

Suspension Order

57. Having determined that a conditions of practice order would not be appropriate, the panel then went on to consider if a suspension order would be the most appropriate sanction.

58. The panel noted that Mr Leach had been suspended from practising since 14 July 2023. This had provided him with an opportunity to complete regular training to address the concerns identified by the findings by the final order panel and to comprehensively reflect on his behaviour including demonstrating insight and remediation. The panel noted that Mr Leach had failed to take advantage of any of these opportunities.

59. Mr Leach had provided no evidence to demonstrate that he had done anything since the final hearing to address the concerns and findings against him by means of reflection or remediation or demonstrating insight. Mr Leach had not adopted the advice and recommendations of the final hearing panel including providing evidence of any wider professional learning and steps taken to keep his knowledge up to date.

60. The panel decided that a further suspension order would not be sufficient to protect the public and the wider public interest, specifically maintaining public confidence in the profession.

Removal Order

61. 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 is necessary. Mr Leach had failed to demonstrate insight or remediation at all with regard to his practice and as such there is a risk of repetition.

62. The panel took into account the Sanctions Guidance which states that "a removal order must be made where the adjudicators conclude that no other outcome would be enough to protect the public, maintain confidence in the profession or maintain proper professional standards for social workers in England."
63. The panel reminded itself that the final hearing panel had found that Mr Leach had been dishonest, breached confidentiality and failed to perform to the standard expected of a social worker.
64. The panel decided that Mr Leach's case falls into the category requiring a removal order, because of the failure to demonstrate any insight, remediation or reflection and the ongoing risk of repetition.
65. The panel concluded that Mr Leach's current impairment and continuing risk to service users required that he should be removed from the register to protect the public from harm. The panel acknowledged that a removal order would preclude Mr Leach from practising. However, the panel took into account that Mr Leach had been given an opportunity to evidence his insight and remediation in relation to the panel findings, but had not done so. The panel was therefore satisfied that any lesser sanction than a removal order would undermine public trust and confidence in the profession and would be wholly insufficient to maintain professional standards.
66. In reaching this conclusion the panel balanced the public interest against Mr Leach's interests. The panel took into account the consequential personal and professional impact a removal order may have upon Mr Leach, but concluded that these considerations are significantly outweighed by the panel's duty to give priority to public protection and the wider public interest.
67. The panel was satisfied it could consider that a removal order was available to the panel as Mr Leach's fitness to practise was originally found impaired on the basis of one or more grounds as set out in regulation 25(2)(a), (c), (d), (f) or (g).

Right of appeal:

68. 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.
69. 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.
70. 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.
71. This notice is served in accordance with Rules 44 and 45 of the Fitness to Practise Rules 2019 (as amended).

Review of final orders:

72. 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).
73. 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

74. 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>