

Social Worker: Alan Ferrier
Registration Number: SW111266
Fitness to Practise: FTPS-17068
Final Order Review Meeting

Meeting venue:	Remote meeting
Date of meeting:	Thursday, 20 June 2024
Order being reviewed:	Final conditions of practice order – expiring 5 August 2024
Outcome:	Removal order

Introduction and attendees:

1. This review took place pursuant to paragraph 15(1) of Schedule 2 to the Social Workers Regulations 2018. It was the second review of a 12-month final conditions of practice order in respect of Mr Alan Ferrier which had been made on 2 July 2021 by case examiners appointed by Social Work England. The order was made after it had first been proposed by the case examiners and subsequently accepted by Mr Ferrier on 9 June 2021. The order was reviewed on 20 June 2022 and, at that review, it was varied and extended by 24 months. The varied and extended order took effect on expiry of the original order on 5 August 2022 and will therefore expire on 5 August 2024.
2. This review was held remotely.
3. Mr Ferrier did not attend this review and was not represented.
4. As this review took place as a meeting, Social Work England was not represented but its solicitors, Capsticks LLP, had made written submissions on its behalf in the notice of this review.
5. The panel of adjudicators conducting this review (the “**panel**”) and the other people involved in it were as follows:

Adjudicators	Role
Paula McDonald	Chair
Susan Williams	Social Worker Adjudicator

Hearings Team/Legal Adviser	Role
Hannah McKendrick	Hearings Officer
Khadija Rafiq	Hearings Support Officer
Charles Redfearn	Legal Adviser

Service of Notice:

6. The panel had careful regard to the contents of the service bundle, which included the following documents:
 - An extract from Social Work England’s register (the “**Register**”) showing the email address for Mr Ferrier which is held by Social Work England.
 - A copy of the notice of this final order review (the “**Notice**”), which was dated 21 May 2024. The notice stated that it was to be sent by email and was addressed to Mr Ferrier at his email address as it appears on the Register.
 - A copy of a covering email dated 21 May 2024, which was sent by an employee of Capsticks LLP and addressed to Mr Ferrier at his email address as it appears on the Register. The covering email referred to a final order review, which was scheduled to

take place on 20 June 2024, and stated that it had attached to it a copy of a “Notice of FOR Letter” and related documents.

- A copy of a signed statement of service which was made on 10 June 2024 by the employee of Capsticks LLP who was the sender of the covering email and which stated that, on 21 May 2024, that employee had sent the Notice and relevant enclosures by email to Mr Ferrier at his email address as it appears on the Register.

7. The panel accepted the advice of the Legal Adviser in relation to service of notice. This included reference to rules 16, 44 and 45 of Social Work England’s Fitness to Practise Rules (the “FTP Rules”) and paragraph 15(5) of Schedule 2 to the Social Worker’s Regulations 2018.

Panel’s decision on service

8. With regard to the contents of the Notice and its enclosures, the panel noted that:
 - The Notice satisfied the requirements of paragraph 15(4) of Schedule 2 to the Social Worker’s Regulations 2018 in that it informed Mr Ferrier of the step which Social Work England was seeking in relation to this review and that he could attend, and be represented at, this review or make written submissions.
 - The Notice satisfied the requirements of rule 16 of the FTP Rules in that it specified the date of this review and the date by which Mr Ferrier should confirm his attendance or make written submissions, such date being 5 June 2024.
9. The panel noted from the Notice, its covering email, Mr Ferrier’s entry in the Register and the Statement of Service that, when sending the Notice, Social Work England had used one of the mandatory means of service specified in rule 44(a) of the FTP Rules, namely, sending the Notice by email to an email provided by Mr Ferrier, being the email address appearing on Mr Ferrier’s entry in the Register.
10. With regard to proof that the Notice had been served on Mr Ferrier:
 - As the Notice had been sent by email, the panel considered that service of the Notice had been conclusively proved by the Statement of Service, which, as required by rule 44(b)(iii) of the FTP Rules, had been made by the sender of the covering email and its attachments (which included the Notice).
 - The panel also noted that Mr Ferrier appeared to have responded to the Notice in an email to Social Work England’s solicitors of 24 May 2024, which indicated that he had received the Notice and its enclosures.
11. In terms of the period of notice given to Mr Ferrier:
 - As rule 45 of the FTP Rules required panel to treat a notice served by email as being served on the date on which it was sent, the panel concluded that, as the Notice was sent of 21 May 2024, Mr Ferrier had been given 30 days’ notice of this review.
 - The panel noted that the wording of rule 16(ac) of the FTP Rules, although unclear, was intended to implement a decision, arrived at after a formal public consultation,

that social workers should be given at least 28 days' notice of a final order review. This requirement had been satisfied and, in any event, the period of notice was reasonable in all the circumstances.

12. Accordingly, the panel concluded that Mr Ferrier had been served with notice of this review in accordance with the FTP Rules and the Social Workers Regulations 2018.

Proceeding with the interim order review as a meeting:

13. The panel noted that the notice of this review 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 5 June 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."
14. Given the above wording and that the panel had determined that notice of this review had been served on Mr Ferrier in accordance with the FTP Rules, the panel was satisfied that Mr Ferrier would have understood that, in his absence, this review could proceed as a meeting.
15. The documents before the panel included an email dated 24 May 2024 from Mr Ferrier to Capsticks LLP, Social Work England's solicitors, in which Mr Ferrier stated, *"Is there any possibility of changing the date of the hearing to Tuesday 25th June? I have prior work commitments that I am not able to change though appreciate if the panel would like to ask me any questions in the review meeting. I have no intention to write any additional material involving this case, though would be happy to give an oral account in an online meeting. I still have no intention to return to Social Work and remain to work with the same organisation as previously mentioned."*
16. In response to that email, Capsticks LLP had sent to Mr Ferrier an email dated 24 May 2024, in which they advised him of the steps which he should take if he wished to apply for this review to be postponed and of the information which should be included in any such application. The documents before the panel did not contain any response from Mr Ferrier to that email or any application from him for this review to be postponed.
17. The panel heard and accepted the advice of the Legal Adviser on rule 16(c) and 16(d) of the FTP Rules, which state:
"(c) 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."

(d) Where the registered social worker makes written submissions and states that they do not intend to attend before the regulator, the regulator may direct that the question of whether an order should be made is determined by means of a meeting.”

18. In relation to the concluding words of those rules, the Legal Adviser advised that it was clear from the context that the reference in both rules to making an order was intended to be a reference to reviewing an order.
19. On the basis of the Legal Adviser’s further advice, the panel was satisfied that one or other of those rules was engaged in the present instance, such that Social Work England was entitled to direct or determine that this review should proceed as a meeting. In that regard, the Legal Adviser advised that:
 - There was an argument for rule 16(c) being engaged, as Mr Ferrier, in his email of 24 May 2024, did not expressly state that he was not going to attend this review.
 - There was also an argument for rule 16(d) being engaged as it could be inferred from Mr Ferrier's stating that he had work commitments on 20 June which he could not change that he was, in effect, stating that he would not attend the review unless it was moved to another date. Similarly, it was also arguable that, by stating that he did not intend to make written submissions and did not intend to return to social work, Mr Ferrier was making written submissions for the purposes of rule 16(d).
20. Each member of the panel had received emails from Social Work England dated 13 and 18 June 2024, which stated, among other things, that this review would proceed as a meeting. For the reasons given above, the panel understood this to be a direction by Social Work England under rule 16(c) or 16(d). The panel therefore proceeded to conduct this review as a meeting in accordance with that direction.

Regulatory concerns, background and case examiners’ decision on facts and grounds:

21. As recorded in a final decision dated 2 July 2021 (the “**Final Decision**”), a copy of which was included in the review bundle, case examiners appointed by Social Work England had determined that there was a realistic prospect that adjudicators would determine that Mr Ferrier’s fitness to practise was impaired on the grounds of adverse physical or mental health on the basis of the following regulatory concerns:
 1. *Whilst employed as a Newly Qualified Social Worker with Bristol City Council, you failed to take appropriate action to safeguard Service User 1 and Service User 2. It had been previously identified that these two service users were at risk of harm.*
 2. *On or around 14 January 2019, you failed to follow a management direction to complete a home visit. You asked a colleague who was not a qualified social*

worker to complete the visit on your behalf. Your actions had the potential to put the service user and your colleague at risk.

3. *Whist employed as a Newly Qualified Social Worker with Bristol City Council, you failed to demonstrate the required level of skill and knowledge in the following areas:*
 - (a) analysis of information;*
 - (b) identification of risk and management of risk; and*
 - (c) managing challenging situations and taking appropriate action to deal with this.*
 4. *Whilst registered as a social worker you have not taken steps to manage a health condition, **PRIVATE**, which may impact upon your ability to practise as a social worker.*
 5. *Whilst registered as a social worker you have not taken steps to manage a health condition, namely **PRIVATE**, which may impact upon your ability to practise as a social worker.*
 6. *By reason of regulatory concerns, 1, 2, and 3, your fitness to practise as a social worker is impaired by reason of your misconduct and/or lack of competency.*
 7. *By reason of regulatory concerns 4 and 5 your fitness to practise as a social worker is impaired by reason of adverse physical or mental health.*
22. The regulatory concerns about Mr Ferrier's fitness to practice arose from a referral made on 12 February 2020 by his then manager. Those concerns arose whilst Mr Ferrier was newly qualified and undertaking his Assessed and Supported Year in Employment ("**ASYE**").
23. With regard to regulatory concern 1, the case examiners stated in the Final Decision, "*The social worker was the allocated social worker for P1 and P2, a cohabiting couple. Several professionals, neighbours and family members had expressed concerns regarding the well-being and safety of these two individuals. It had been identified that P1 and P2 had a number of physical and possibly mental health problems. Their living conditions affected the quality of life of the neighbours. Their home was infested with flies and vermin. There was rotting food and P2 was using buckets in the upstairs area as there was no working toilet such was the level of disrepair of the home.*" However, the Final Decision recorded that, despite the concerns regarding P1 and P2, Mr Ferrier failed to undertake a Care Act assessment for either of them or to assess their capacity.
24. With regard to regulatory concern 2, the case examiners stated in the Final Decision, "*The evidence to support this regulatory concern is undisputed. Case examiners are concerned that the social worker failed to follow line management direction and delegated their professional responsibility to another member of staff. The evidence would suggest that this visit required a qualified social worker and police to attend. This would indicate that this*

situation required the professional expertise and knowledge of both these professions. The case examiners consider that the social worker chose to prioritise their needs over the safety of their colleague and the service users. The case examiners note that the social worker informed their manager once their colleague had left to undertake the visit. It is the case examiner's opinion that the social worker's delay in discussing their difficulties with management, potentially increased the risks to their colleague, the service users and the police."

25. The case examiners considered that Mr Ferrier's conduct as described in regulatory concerns 1 and 2 was sufficiently serious to amount to misconduct.
26. With regard to regulatory concern 3, the case examiners stated in the Final Decision, *"The case examiners review of evidence pertaining to regulatory concern 3 led them to conclude that the most appropriate statutory grounds for impairment is lack of competence. There appears to be pattern of underperformance which was over a period of time... The case examiners note that the social worker's caseload was reduced to assist them in managing their work. However, that strategy did not help. There were ongoing concerns regarding the social worker's ability to analyse information critically, to assess and respond to risks, to reflect and improve on their practice and to seek advice and support when required."* The case examiners also noted that Mr Ferrier's ASYE was extended on two occasions.
27. With regard to regulatory concern 4, the case examiners stated in the Final Decision, *"The evidence indicates that the social worker did not always act in a proactive manner to access support for their **PRIVATE**. The evidence provided suggests that the social worker appears not have always worked in collaboration with their managers around this issue. The lack of collaborative working appears to have been to the detriment of the social worker. Furthermore, case examiners are of the opinion that when an individual does not have their workplace adjustments in place, that they are potentially disadvantaged and this can have an impact on the work they do."*
28. With regard to regulatory concern 5, the case examiners stated in the Final Decision, *"The evidence from a variety of sources confirms that the social worker was **PRIVATE** at various points and required periods of sick leave to manage this. **PRIVATE** The case examiners are concerned by the delay in the social worker accessing specialist support despite being prompted to do so. They acknowledge that accessing specialist support when experiencing **PRIVATE** is a personal choice. However, in these circumstances the social worker articulated the difficulties that they were experiencing, and their colleague made the social worker acutely aware that this was impacting on their ability to work effectively as a social worker."*
29. The case examiners determined that there was a realistic prospect that adjudicators would find the statutory ground of adverse physical or mental health was engaged for regulatory concerns 4 and 5.

Case examiners' decision on impairment:

30. The case examiners made the following decision with regard to impairment:

In assessing whether there is a realistic prospect that adjudicators may find the social worker's fitness to practise to be impaired, the case examiners have considered the two limbs of the impairment test, the personal element and the public interest element.

Personal impairment

In considering whether the social worker is currently personally impaired, the case examiners are mindful of the following:

- 1. is the conduct remediable?*
- 2. has the social worker has undergone remediation and demonstrated insight, and*
- 3. whether there is a likelihood the matters alleged will be repeated.*

The case examiners have considered the circumstances and findings with regards to regulatory concerns 1 to 2. The case examiners note that regulatory concerns 1 and 2 took place within a wider context of the social worker underperforming during the ASYE process (regulatory 3).

- The social worker has submitted a response as part of the regulatory concerns that have been raised. The social worker has expressed remorse and there is evidence of some insight. They have also outlined in detail, the personal and professional challenges they were experiencing at the time these events took place. The case examiners have taken this into account.*
- With regards to regulatory concerns 1 and 2 the case examiners take the view that the social worker's submissions focus mainly on their perception of organisational failings and the impact it had upon them. The social worker fails to understand the impact they would have had on the service users (regulatory concern 1 and 2). The case examiners consider that a social worker who is incurious presents a risk.*
- It would appear that the social worker has given no consideration to the position they put their colleague in as result of their behaviour (regulatory concern 2).*
- Similarly, the social worker fails to appreciate the potential for reputational damage to the local authority that could have occurred because of their failure to identify and manage risk*

Although the misconduct is serious, the case examiners consider that this conduct is remediable. For example, the social worker could take additional training around mental capacity act and safeguarding to ensure that they fully understand their professional duties.

The lack of remediation and limited insight leads the case examiners to conclude that there remains a risk of repetition.

The case examiners have next turned their mind to regulatory concern 3 and take the following view:

- The social worker was a newly qualified social worker and as such would have had a reduced caseload. It became apparent after a period of time that they were experiencing difficulties in demonstrating the core competencies of a social worker. The social worker was given a significant period to improve but was unable to demonstrate the required level of competence despite being given additional support and training.*
- The case examiners note that those who worked with the social worker expressed concerns regarding some aspects of their work but were complimentary about other aspects. A colleague commented “He had really good interpersonal skills, built rapport well, his conversation was on a very friendly level and “how can we help you” manner but, as a Social Worker, you have to be aware that you need to dig a bit deeper and investigate things”.*
- The social worker states “I do take this experience away with me and if I were to return to practice I would reflect on these areas in developing practice, maybe within a different environment with my access needs being met I may feel able to achieve my ASYE in the future”.*

The case examiners note the social worker’s submissions and would suggest that the conduct is remediable. They agree that the social worker needs to recognise the need to reflect on areas in practice. However, they provide very little information as to how they would use the supervisory process, training and reflective practice to ensure that they are able to consistently demonstrate the required level of competence whilst working in a busy social work team. Consequently, the case examiners are concerned that there is a risk of repetition.

*The case examiners are required to take a view on whether the social worker remains personally impaired as a result of their unmanaged **PRIVATE** symptoms:*

- The case examiners note that the social worker’s **PRIVATE** appeared to impact on their practice. There appeared to be lack of collaborative working between themselves and the local authority. The case examiners note that the social worker is currently working as a social prescriber. As part of the investigatory process they asked the social worker to outline what support they had received as part of their **PRIVATE** coaching. The social worker was unable to do this. The case examiners have no current information as to what support the social worker is accessing. Consequently, they cannot be reassured that the social worker has accessed the necessary support to minimise the likelihood of their practice becoming impaired in the future and as a result there is a risk of repetition.*

The case examiners have made the following observations in relation to regulatory concern 5:

- The social worker has given some thought as to the impact their health may have had on their actions. The social worker's submissions suggest that they understand that they need to seek support should they find themselves in difficulties with their mental well-being.*
- The social worker states "**PRIVATE** I feel that my health condition was caused by lack of support in practice and being made to feel inadequate for needing access equipment when being compared with others"*
- The social worker's health difficulties appear to have taken place within a specific context. These circumstances no longer apply. Should this remain the case, it is hopeful that the social worker will not experience similar difficulties in the future. The case examiners note that the social worker has engaged with their GP and has received appropriate support **PRIVATE. PRIVATE** The social worker's GP states "From my assessment he has good insight and capacity to carry on working as a social prescriber and I think he is also fit to get back into work as an adult social worker".*
- Case examiners are mindful that they must consider whether the social worker is personally impaired at this current time because of their health difficulties. The case examiners are satisfied that there is limited evidence to suggest that this is the case.*

Case examiners therefore consider that, in relation to regulatory concerns 1-4, there is a realistic prospect that the social worker's fitness to practise may be found impaired on the personal element by adjudicators.

The case examiners do not consider that the social worker is personally impaired with regards to regulatory concern 5.

Public interest

The public expect that a social worker will work in accordance with relevant legislation and act in a way that seeks to support and keep vulnerable individuals safe. There is a need to maintain trust and confidence in the profession. The conduct of the social worker had the potential to undermine trust and confidence in the profession. Case Examiner Guidance (February 2020) states "Some concerns are so serious that action is required even if the social worker poses no current risk to the public".

The case examiners are aware that, notwithstanding the remorse shown by the social worker, there are matters where the public's confidence in the profession would be undermined if a finding of impairment were not made.

Due to the serious nature of these allegations, there is a realistic prospect that a finding of current impairment would be made by adjudicators, should the allegations be found proven.

Case examiners' decision on sanction:

31. The case examiners made the following decision with regard to sanction:

Case examiners have already determined that there is a realistic prospect that the social worker's fitness to practise would be found impaired. The Sanctions Guidance (Nov 2019) advises "Impairment is when a social worker is not suitable to be registered without restriction" (paragraph 71).

The case examiners are, therefore, led to consider sanctions which restrict the social worker's practice. They note that the same paragraph makes allowances for cases "where the mitigating factors put forward by the social worker in defence such as insight and remediation are strong enough that restriction is not required". The case examiners have already determined that they do not consider that the social worker has demonstrated sufficient insight or remediation. Therefore, the sanctions of no further action, advice or a warning are considered inappropriate on the basis that these outcomes will not restrict practice and therefore not sufficiently protect the public.

Suspension at this time is not considered the least restrictive sanction necessary to protect the public and the wider public interest, given that the social worker has shown some limited insight and is therefore wholly disproportionate.

Case examiners are of the view that the social worker appears to have the potential for remediation, in terms of reflecting upon their professional social work responsibilities. The primary purpose of conditions of practice orders are to protect the public while a social worker takes any necessary steps to remediate their fitness to practise.

The case examiners consider, if accepted by the social worker, a conditions of practice order over a period of one year is sufficient to protect the public. This will allow them time to reflect upon their actions and the potential impact on service users and their employers and on the reputation of the profession and to satisfy the regulator that there will be no repetition of this conduct. Case examiners are of the view that one year is sufficient for the social worker to demonstrate remediation and a longer period is not necessary.

Case examiners consider that accepted disposal and conditions of practice will allow the social worker to reflect further on their actions in a constructive way and to commit to practising safely in the future.

32. The case examiners made the following final conditions of practice order in respect of Mr Ferrier for a period of 12 months:

1. You must notify Social Work England within 7 days of any professional appointment you accept or are currently undertaking and provide the contact details of your employer, agency, or any organisation with which you have a contract or arrangement to provide social work services, whether paid or voluntary.

2. You must allow Social Work England to exchange information with your employer, agency or any organisation with which you have a contract or arrangement to provide social work or educational services, and any reporter referred to in these conditions.

3.

a. At any time you are providing social work services, which require you to be registered with Social Work England, you must agree to the appointment of a reporter nominated by you and approved by Social Work England. The reporter must be on Social Work England's register.

b. You must not start/restart work until these arrangements have been approved by Social Work England.

c. You must allow your reporter and Social Work England to exchange information.

4. You must provide reports from your supervisor to Social Work England every four months from the date condition 3 comes into effect and at least 14 days prior to any review.

5. You must inform Social Work England within seven days of receiving notice of any formal disciplinary proceedings taken against you from the date these conditions take effect.

6. You must inform Social Work England within seven days of receiving notice of any investigations or complaints made against you from the date these conditions take effect.

7. You must inform Social Work England if you apply for social work employment / self employment (paid or voluntary) outside England within seven days of the date of application.

8. You must inform Social Work England if you are registered or subsequently apply for registration with any other UK regulator, overseas regulator, or relevant authority within seven days of the date of application [for future registration] or seven days from the date these conditions take effect [for existing registration].

9. You must read Social Work England's 'Professional Standards' (July 2019), and provide a written reflection to Social Work England within 3 months of when these conditions take effect, focusing on how your conduct was below the accepted standard of a social worker, outlining what you should have done differently. This reflective account, which should be a minimum of 500 words and a maximum of 1000 words, should consider the following:

a) full consideration of your responsibilities as a professional working with vulnerable individuals, the associated risks and how you will use the frameworks and guidance to manage/mitigate risks

b) how your actions have the potential to impact on public confidence in the profession of social work and on maintaining professional standards.

10. You must work with your reporter, to formulate a personal development plan, specifically designed to address the shortfalls in the following areas of your practice:

a) analysis of information;

b) identification of risk and management of risk;

c) managing challenging situations and taking appropriate action to deal with this;

d) caseload management.

Your personal development plan needs to evidence how the employer will provide an enabling environment which will allow you to manage your PRIVATE.

11. You must provide a copy of your personal development plan to Social Work England within 4 weeks from the date of approval of the reporter and submit an updated copy 10 days prior to any review.

12. You must inform, within seven days from the date these conditions take effect, the following parties that your registration is subject to the conditions listed at 1 to 11 above:

- Any organisation or person employing or contracting with you to undertake social work services whether paid or voluntary.*

- Any locum, agency or out-of-hours service you are registered with or apply to be registered with in order to secure employment or contracts to undertake social work services whether paid or voluntary (at the time of application).*

- Any prospective employer who would be employing or contracting with you to undertake social work services whether paid or voluntary (at the time of application).*

- Any organisation, agency or employer where you are using your social work qualification/knowledge/skills in a non-qualified social work role, whether paid or voluntary.*

You must forward written evidence of your compliance with this condition to Social Work England within 14 days from the date these conditions take effect.

13. You must permit Social Work England to disclose the above conditions, 1 to 12, to any person requesting information about your registration status.

First review panel's decision on impairment:

33. The panel which reviewed the final conditions of practice order in respect of Mr Ferrier on 20 June 2022 made the following decision with regard to impairment:

23. The panel first considered whether Mr Ferrier's fitness to practise remains impaired.

24. The panel noted that the Case Examiners had required Mr Ferrier to produce a written reflection focusing on the way in which his conduct fell below the standards expected of a social worker and outlining what he should have done differently. Mr Ferrier had produced this statement and the panel was satisfied that he had complied with this condition. Although the reflective piece could have been fuller in relation to the requirements of condition 9(b) the panel was satisfied, having questioned Mr Ferrier, that he was aware of the potential impact of his actions upon public confidence in the profession and the maintenance of appropriate standards.

25. Mr Ferrier had not practised as a social worker since the conditions of practice order came into effect. He had not therefore had the opportunity to demonstrate any practical remediation in relation to the areas of impairment identified by the Case Examiners. In these circumstances this reviewing panel concluded that his fitness to practise was still impaired. There was therefore a risk of repetition of the type of regulatory concern which had led to the initial referral.

First review panel's decision on sanction:

34. The panel which reviewed the final suspension order in respect of Mr Ferrier on 20 June 2022 made the following decision with regard to sanction:

No Action

30. The panel concluded that, in view of the nature and seriousness of Mr Ferrier's fitness to practise impairment which has not been remedied, it would be inappropriate to take no action. Such a course would be insufficient to protect the public, maintain public confidence and uphold the reputation of the profession.

Advice or Warning

31. The panel then considered whether to issue advice or a warning. The panel noted that neither of these sanctions would restrict Mr Ferrier's ability to practise and is therefore not appropriate where there is a current risk to public safety. In any event, the deficiencies in Mr Ferrier's practice had the potential to have wide-ranging adverse consequences and therefore some restriction on his practice is required. Therefore, the panel concluded that issuing advice or a warning would be inappropriate and insufficient to meet the public interest.

Conditions of Practice Order

32. The panel went on to consider a conditions of practice Order. Like the Case Examiners, the panel took the view that Mr Ferrier's deficiencies are potentially capable of being remedied and was satisfied that the existing conditions of practice order could be appropriately modified by deleting the requirement to provide a written reflection (with which Mr Ferrier had complied). The remaining conditions continued to be appropriate to manage the risk and protect the public. The panel updated the wording of the previous order so as to bring it into line with the current Conditions Bank. The following conditions are therefore applicable:

- 1. You must notify Social Work England within 7 days of any professional appointment you accept or are currently undertaking and provide the contact details of your employer, agency or any organisation with which you have a contract or arrangement to provide social work services, whether paid or voluntary.**
- 2. You must allow Social Work England to exchange information with your employer, agency or any organisation with which you have a contract or arrangement to provide social work or educational services, and any reporter referred to in these conditions.**
- 3.**
 - a. At any time you are providing social work services, which require you to be registered with Social Work England, you must agree to the appointment of a reporter nominated by your line manager and approved by Social Work England. The reporter must be on Social Work England's register.**
 - b. You must not start work until these arrangements have been approved by Social Work England.**
- 4. You must provide reports from your reporter to Social Work England every 4 months from the date condition 3 comes into effect and at least 14 days prior to any review.**
- 5. You must inform Social Work England within 7 days of receiving notice of any formal disciplinary proceedings taken against you from the date these conditions take effect.**
- 6. You must inform Social Work England within 7 days of receiving notice of any investigations or complaints made against you from the date these conditions take effect.**
- 7. You must inform Social Work England if you apply for social work employment / self-employment (paid or voluntary) outside England within 7 days of the date of application.**

8. You must inform Social Work England if you are registered or subsequently apply for registration with any other UK regulator, overseas regulator or relevant authority within seven days of the date of application [for future registration] or 7 days from the date these conditions take effect [for existing registration].

9. You must work with your reporter, to formulate a personal development plan, specifically designed to address the shortfalls in the following areas of your practice:

a) Analysis of information;

b) Identification of risk and management of risk;

c) Managing challenging situations and taking appropriate action to deal with this;

d) caseload management. Your personal development plan needs to evidence how the employer will provide an enabling environment which will enable you to manage your PRIVATE.

10. You must provide a copy of your personal development plan to Social Work England within 4 weeks from the date of approval of the reporter and submit an updated copy 10 days prior to any review

11. You must provide a written copy of your conditions within 7 days from the date these conditions take effect to the following parties confirming that your registration is subject to the conditions listed at 1-10 above:

- **Any organisation or person employing or contracting with you to undertake social work services whether paid or voluntary.**

- **Any locum, agency or out-of-hours service you are registered with or apply to be registered with in order to secure employment or contracts to undertake social work services whether paid or voluntary (at the time of application).**

- **Any prospective employer who would be employing or contracting with you to undertake social work services whether paid or voluntary (at the time of application).**

- **Any organisation, agency or employer where you are using your social work qualification/knowledge/skills in a non-qualified social work role, whether paid or voluntary.**

You must forward written evidence of your compliance with this condition to Social Work England within 7 days from the date these conditions take effect.

12. You must permit Social Work England to disclose the above conditions, 1 to 11, to any person requesting information about your registration status.

33. *The panel determined that these conditions should remain in place for a further 24 months from the expiry of the existing order. This would give you time to comply if your present intentions should change in future (for example, because of unexpected events) and would also remove the need for further reviews before the end of the three-year period specified in paragraph 15 (1)(b) if your present intention remains unchanged.*

34. *The panel was satisfied that a suspension order would be disproportionate as the existing risks can be properly managed by a conditions of practice order.*

Submissions on behalf of Social Work England:

- 30 In the notice of this review, Capsticks LLP, on behalf of Social Work England, made the following submissions:

Social Work England invite the Reviewing Panel to replace the Conditions of Practice Order with a Removal Order on the basis that it is necessary to protect the public and in the wider public interest.

At the 2022 review hearing, having failed to engage with all but one of his conditions of practice, the Social Worker said that he did not intend to practice as a social worker, that he did not think it likely he would change his mind and that he would like to be removed from the register. The Reviewing Panel were not in a position to issue a Removal Order on that occasion due to the combined effect of Paragraphs 13 (2) and 15(1) (b) of Schedule 2 of the Social Workers Regulations 2018. At the time of the last review, for a Removal Order in a case such as this, the order being reviewed must have been made by Adjudicators (not Case Examiners, who could not in accordance with the legislation in force at that time, impose a Removal Order as a sanction). The option of removal is now open to the Review Panel, in accordance with the Social Workers Regulations 2018 (as amended).

Since the Final Conditions of Practice Order was first imposed, the Social Worker has shown no genuine interest in engaging with Social Work England's requirements for a return to safe practice. This is despite being written to with encouragement to engage on 16 March 2023 and 27 March 2024.

The previous Reviewing Panel remarked that the Conditions of Practice Order would give the Social Worker time to comply if his intentions should change in future (for example, because of unexpected events).

This case involves serious concerns about the Social Worker's ability to practise safely and competently – encompassing misconduct, capability and health issues. Without evidence to support a finding of a lower risk of repetition, given the need to protect the public, a finding of impairment is necessary. The wider public interest requires that

standards are upheld and maintained, which cannot be said to be achieved without a finding of impairment in the circumstances.

The Social Worker has now failed to use two opportunities to demonstrate a willingness to address his impaired fitness to practise. It is submitted that there is no basis to reasonably believe a further period of conditions or suspension is likely to result in any improvement. The Panel are therefore invited to direct removal from the register.

Submissions from Mr Ferrier:

- 31 With regard to submissions from Mr Ferrier, the panel noted that the note of the previous review stated, *“Mr Ferrier gave oral evidence to the panel about his current position. He told the panel that since April 2020 he had been working as a Link Worker in social prescribing, helping individuals to locate the appropriate organisations which might be of benefit to them in dealing with issues such as debt. He enjoyed this work and, since January 2022, he had been promoted to Team Manager, managing ten link workers. He did not wish to return to social work and did not think he would change his mind about this. He wished to come off the register.”*
- 32 The panel also noted that:
- In an email to Social Work England dated 27 June 2022 regarding the decision of the first review panel, Mr Ferrier had stated *“I would like to appeal this discission [sic], on the grounds that I would like to leave the register as I no longer work in the field of social work and do not want to seek employment in social work in the future. Maintaining my registration, comes at financial expense and as I no longer want or need my registration to work in in my current employment, I feel that the decision made in hearing does not need to be actioned.”*
 - In his email to Social Work England’s solicitors of 24 May 2024, Mr Ferrier had stated, *“I still have no intention to return to Social Work and remain to work with the same organisation as previously mentioned.”*

Legal advice on the review process

- 33 The panel heard and accepted the advice of the Legal Adviser with regard to the procedure which it should follow, and the matters which it should consider, when conducting reviews of final orders under paragraph 15(1) of Schedule 2 to the Social Workers Regulations 2018.
- 34 In giving his advice, the Legal Adviser referred the panel to the case of *Khan v General Pharmaceutical Council [2017] 1 WLR 169 SC (Sc)*, in which the court stated *“... 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 [original order]. 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 [the original order]. The original committee found that his fitness to practice was impaired. The review committee asks, “Does his fitness to practice remain impaired?”

- 35 The Legal Adviser also referred the panel to the section on final order reviews found at paragraphs 213 to 218 of Social Work England’s Impairment and Sanction Guidance (the “Guidance”). The panel noted that paragraphs 216 and 217 of the Guidance state, “A social worker must not be allowed to resume unrestricted practice unless the decision makers are satisfied their fitness to practise is no longer impaired... The review process should not undermine the original decision made by the case examiners or adjudicators. A review looks at what has happened since the order was put in place. The purpose of a review is to consider whether ... the social worker has demonstrated remediation, insight and/or remorse; the social worker has demonstrated they are now safe to practise and/or there is no longer a risk to the public; ... the social worker’s fitness to practise remains impaired (and if so, whether the existing order or another order needs to be in place.
- 36 The panel understood from the Legal Adviser’s advice that:
- the panel must first decide whether Mr Ferrier’s fitness to practice remains impaired; and
 - if the panel decides that Mr Ferrier’s fitness to practise is no longer impaired, it may revoke the existing final suspension order with immediate effect or it may make no order and allow the existing suspension order to expire at the end of its term; or
 - if the panel decides that Mr Ferrier’s fitness to practise remains impaired, it must then decide which of the measures available to it would be appropriate and proportionate in the circumstances.

Panel’s decision and reasons on current impairment:

Legal Advice on Impairment

- 37 The panel heard and accepted the advice of the Legal Adviser on impairment. That advice included the following points:
- The existence of impairment is a matter for the panel’s own independent judgment or assessment and, in considering whether Mr Ferrier’s fitness to practise remains impaired, the panel should take account of the Guidance.
 - Given the three elements of Social Work England’s overarching objective of ‘protection of the public’, the panel should consider, not only whether Mr Ferrier’s misconduct, lack of competence or capability and adverse physical or mental health still poses a risk to the health, safety and well-being of the public, but also whether his fitness to practise

remains impaired in the sense that a finding of impairment is still required in order to maintain public confidence or proper professional standards.

- In line with the decision in Cohen v GMC [2008] EWHC 581 (Admin), the panel should consider whether Mr Ferrier's misconduct lack of competence or capacity and adverse physical or mental health (a) is easily remediable; (b) has already been remedied; and (c) is highly unlikely to be repeated.
- When determining the third of those points, the panel should consider the factors mentioned in paragraphs 16 to 63 of the Guidance, which include any admissions or expressions of remorse on the part of Mr Ferrier; any previous regulatory findings against Mr Ferrier and his conduct since the final hearing; and any evidence of insight and remediation on the part of Mr Ferrier.

Panel's decision on impairment

38 In considering the question of current impairment:

- The panel had regard to all of the documentation before it, as well as to the written submissions made on behalf of Social Work England and Mr Ferrier and to the advice given by the Legal Adviser.
- The panel undertook a comprehensive review of the final conditions of practice order in respect of Mr Ferrier in the light of the current circumstances.
- The panel took into account the decisions and reasons of the case examiners who had made the original final conditions of practice order and of the panel which had reviewed, varied and extended it in June 2022. However, the panel exercised its own judgement in relation to the matters to be determined at this review.

39 The panel first considered whether Mr Ferrier's fitness to practise remained impaired in the sense that his misconduct, lack of competence or capability, or adverse physical or mental health remained a risk to the health, safety and well-being of the public.

40 In that regard, the panel noted that, as far as regulatory concerns 1, 2, 3 and 4 were concerned, the case examiners had decided that Mr Ferrier's fitness to practise was impaired in terms of the personal component of impairment, that is, in terms of the need to protect the health, safety and well-being of the public and in terms of the need to maintain public confidence and proper professional standards. In this connection, the Final Decision set out the case examiner's reasons for concluding that Mr Ferrier's misconduct (in the case of regulatory concerns 1 and 2), lack of competence or capability (in the case of regulatory concern 3) and adverse physical or mental health (in the case of regulatory concern 4) posed a risk to the health, safety and well-being of service users. Although there did not appear to be any evidence that Mr Ferrier's misconduct, lack of competence or capability, or adverse physical or mental health had caused actual harm to the health, safety and well-being of service users, the case examiners considered that those matters nevertheless posed a serious risk of harm.

- 41 However, the panel also noted that, with regard to regulatory concern 5, the case examiners did not consider that Mr Ferrier was personally impaired. The reasons for this decision were as follows: *“The social worker’s health difficulties appear to have taken place within a specific context. These circumstances no longer apply. Should this remain the case, it is hopeful that the social worker will not experience similar difficulties in the future. The case examiners note that the social worker has engaged with their GP and has received appropriate support **PRIVATE**. The social worker’s GP states “From my assessment he has good insight and capacity to carry on working as a social prescriber and I think he is also fit to get back into work as an adult social worker”.*
- 42 The panel then proceeded to consider whether Mr Ferrier’s misconduct, lack of competence or capability, or adverse physical or mental health continued to pose a risk to the health, safety and well-being of the public and, in particular, service users. In this regard:
- There was no evidence before the panel that there had been any repetition of any incidents of the type which formed the subject of the regulatory concerns to which these proceedings relate. However, this appeared to be due to Mr Ferrier not having practised as a social worker since the case examiners’ decision.
 - With regard to insight, the panel noted that Mr Ferrier had, at the first review of the final conditions of practice order, produced a reflective piece. The first review panel considered that the reflective piece could have been fuller. Nevertheless, having questioned Mr Ferrier, it was satisfied that he was *“aware of the potential impact of his actions upon public confidence in the profession and the maintenance of appropriate standards”*. However, the first review panel did not comment on the extent, if any, to which the reflective piece demonstrated any of the things set out in paragraph 33 of the Guidance, namely, that Mr Ferrier understood what had led to the events which were the subject of the regulatory concerns; recognised what had gone wrong; accepted his role and responsibilities in relation to those events; appreciated what could, and should, have been done differently; and had addressed how he might act differently if the same circumstances were to arise again. Similarly, the present panel had no further evidence regarding those matters. In the circumstances, the panel concluded that Mr Ferrier’s insight into his misconduct, lack of competence or capability, or adverse physical or mental health remained limited.
 - With regard to remediation, the panel noted that Mr Ferrier had not undertaken any effective remediation in relation to regulatory concerns 1, 2, 3 and 4 up to the time of the case examiner’s decision. It also noted that the first review panel had concluded, *“Mr Ferrier had not practised as a social worker since the conditions of practice order came into effect. He had not therefore had the opportunity to demonstrate any practical remediation in relation to the areas of impairment identified by the Case Examiners. In these circumstances this reviewing panel concluded that his fitness to practise was still impaired.”* Likewise, there was no evidence before the present panel to show that Mr Ferrier had undertaken any effective remediation in relation to the

issues which had given rise to the regulatory concerns. However, this was not surprising, given that he was no longer working as a social worker and that, since June 2022 at least, he had consistently expressed his intent not to return to social work.

- Therefore, given the limited evidence of insight on the part of Mr Ferrier and the absence of any evidence that he had undertaken any remediation, the panel considered that there was a very significant risk that Mr Ferrier's conduct, as described in regulatory concerns 1, 2, 3 and 4 would be repeated if he were allowed to return to unrestricted practice.

44. Therefore, given the risks to service users posed by the conduct on the part of Mr Ferrier which gave rise to regulatory concerns 1, 2, 3 and 4, and given the risk of that conduct being repeated if he were allowed to return to unrestricted practice, the panel concluded that Mr Ferrier's fitness to practise remained impaired in terms of the need to protect the health, safety and well-being of the public.

45. The panel then considered whether Mr Ferrier's fitness to practice was impaired in terms of the "public component", that is in terms of the need to maintain public confidence and proper professional standards. In that regard:

- The panel noted that the case examiners had determined that there was a realistic prospect that adjudicators would find that Mr Ferrier's fitness to practice was impaired in terms of the public component of impairment. The case examiners appeared to base that determination on the need to maintain public confidence. However, given the case examiners' conclusion that Mr Ferrier's conduct as described in regulatory concern 5 did not pose a risk to the health, safety and well-being of the public, it was unclear whether the case examiners intended their decision regarding the public component of impairment to apply to regulatory concern 5.
- It was unclear whether the first review panel had determined that Mr Ferrier's fitness to practice remained impaired in terms of the need to maintain public confidence and proper professional standards.
- Given the present panel's conclusion that Mr Ferrier's conduct as described in regulatory concerns 1, 2, 3 and 4 posed a risk to service users and was likely to be repeated if he was permitted to practise without restriction, the panel considered that informed and reasonable members of the public would be alarmed if he were to be allowed to return to unrestricted practice.
- Accordingly, the panel concluded that Mr Ferrier's fitness to practise remained impaired in terms of the need to maintain public confidence in social workers. For the same reasons, the panel considered that professional standards for social workers would be compromised if Mr Ferrier were allowed to return to unrestricted practice. The panel therefore concluded that Mr Ferrier's fitness to practise remained impaired in terms of the need to maintain proper professional standards for social workers.

Panel's decision and reasons on sanction:

Legal Advice on Sanction

46. The panel heard and accepted the advice of the Legal Adviser on sanction.
47. The panel understood from that advice that, as it had found that Mr Ferrier's fitness to practise remained impaired, it could, under paragraph 15(1) of Schedule 2 to the Social Workers Regulations 2018 (as amended):
 - extend the existing conditions of practice order by a period of up to three years; or
 - make any order which the panel conducting the first review could have made when they made the existing condition of practice order, again for a period of up to three years.
48. With regard to the last of those options, the panel noted that:
 - The case examiners, and therefore the first review panel, could have made a "final order".
 - Paragraph 13(1) of Schedule 2 to the Social Workers Regulations 2018 defines a final order as including a warning order, a conditions of practice order, a suspension order or a removal order.
 - A removal order was not available to the case examiners or the first review panel when they considered Mr Ferrier's case because of restrictions contained in paragraph 13(2) of Schedule 2 to the Social Workers Regulations. However, the panel understood from Social Work England's submissions and from advice given by the Legal Adviser that those restrictions do not apply to the present panel.
49. The panel also understood from the Legal Adviser's advice that, when determining the action which it should take, it should act in accordance with the Guidance, in particular, the section on sanction.

Panel's decision on sanction

50. In terms of sanction, the panel's considered the measures available to it in ascending order of severity.
51. As the panel had found that Mr Ferrier would still pose a risk to the health, safety and well-being of the service users if allowed to practice without restriction, it did not consider that a warning order would be appropriate, as such an order would not restrict his ability to practise as a social worker or otherwise manage that risk. For the same reason, the panel considered that a warning order would not be sufficient to maintain public confidence and proper professional standards.

52. Likewise, the panel did not consider that a conditions of practice order remained appropriate as it would serve little purpose given that Mr Ferrier had not worked as a social worker for several years and had expressed a very clear intention not to return to social work coupled with a wish to be removed from the Register.
53. For similar reasons, the panel did not consider that a suspension order would be appropriate. In this regard, the panel noted that paragraph 138 of the Guidance states *“Suspension is likely to be unsuitable in circumstances where the social worker has not demonstrated any insight and remediation and there is limited evidence to suggest they are willing (or able) to resolve or remediate their failings”*. Although, in the present case, Mr Ferrier had demonstrated some insight, there was no evidence of remediation and no desire on his part to undertake any given his intention not to return to social work.
54. Given that the panel had concluded that a warning order, a conditions of practice order and a suspension order would not be appropriate, the only option open to the panel was a removal order. In this regard, the panel noted that paragraph 146 of the Guidance states *“In the absence of improved insight or other remediation upon review, a removal order may be an appropriate sanction”*. It also noted that, in paragraph 149 of the Guidance, the situations in which a removal order may be appropriate include *“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)”*. Accordingly given the panel’s findings regarding the continuing impairment of Mr Ferrier’s fitness to practise, and given Mr Ferrier’s clear intent not to return to practising as a social worker and his wish to be removed from the Register, the panel concluded that, in the circumstances of the present case, a removal order was the appropriate and proportionate order for the purposes of protecting the health, safety and well-being of the public and maintaining public confidence and proper professional standards and that no other order would be sufficient for those purposes.
55. In arriving at the above conclusion, the panel noted that paragraph 141 of the Guidance states that it is in the public interest to support a trained and skilled social worker to return to practice, if this can be achieved safely. However, in the present case, Mr Ferrier’s training and skill were limited as he had not completed his assessed and supported year in employment and, moreover, he no longer wished to practise as a social worker.
56. **ORDER: that Mr Ferrier’s entry be removed from the Register.**

Right of Appeal:

57. Under paragraph 16(1)(a) of Schedule 2 to 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, or
- iii. to make a final order; and

(b) the decision of the regulator on review of an interim order, or a final order, other than a decision to revoke the order.

- 58. Under paragraph 16(2) of Schedule 2 to 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.
- 59. Under Paragraph 15(1A) of Schedule 2 to the Social Workers Regulations 2018 (as amended), where a social worker appeals against a decision made under sub-paragraph 15(1), the decision being appealed takes effect from the date specified in that sub-paragraph notwithstanding any appeal against that decision.
- 60. This notice is served in accordance with rules 44 and 45 of the Fitness to Practise Rules 2019 (as amended).

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 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>.