

Social worker: Selina Anne
Duhaney
Registration number: SW76456
Fitness to Practise
Final Order Review Meeting

Date of Meeting: 25 June 2024

Meeting venue: Remote Meeting

Final order being reviewed: Suspension order (expiring 21 July 2024)

Hearing Outcome: Removal order with effect from the expiry of the current
order

Introduction and attendees:

1. This is the first review of a final suspension originally imposed for a period of 12 months by a panel of adjudicators on 23 June 2023.
2. Ms Duhaney did not attend and was not represented.
3. Social Work England was represented by Capsticks LLP and their written submission was set out in the notice of hearing letter.

Adjudicators	Role
Catherine Boyd	Chair
Jasmine Nembhard-Francis	Social worker adjudicator

Hearings team/Legal adviser	Role
Hannah Granger	Hearings officer
Andrew Brown	Hearings support officer
Graeme Dalgleish	Legal adviser

Service of notice and proceedings in absence:

4. The panel of adjudicators (hereafter the panel) had regard to the documents contained in the hearing service bundle. This included a copy of the notice of the final order review hearing dated 24 May 2024 sent to Ms Duhaney at her registered email address; an extract from the Social Work England Register detailing her registered address, and a copy of a signed Statement of Service on behalf of Social Work England confirming service on that date. The panel noticed that the date is correct in the notice of hearing, although it says, “Thursday 25 June 2024” when it should be “Tuesday 25 June 2024.” The panel decided that as the date was correct the notice was effective. The panel accepted the advice of the legal adviser and, having regard to the Rules and the information before it, was satisfied that notice of this hearing had been properly served.
5. The panel accepted the advice of the legal adviser in relation to the factors it should take into account when considering whether to proceed in the absence of Ms Duhaney and to conduct the review as a meeting. The legal adviser referred it to Rule 43 and to the guidance in *General Medical Council v Adeogba [2016] EWCA Civ 162*. It has found proper notice of this review hearing has been served and there is no application for an adjournment. Ms Duhaney has not responded to any communications about this review and has not engaged in this process. There is nothing to suggest that adjourning today’s proceedings would secure her attendance on another date. This is a mandatory review.
6. The panel noted that Ms Duhaney was advised in the notice of hearing:-

“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 10 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."

7. The panel accepted the advice of the legal adviser with regard to Rule 16(c) of the Rules 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."*
8. Ms Duhaney has not responded to the notice of hearing and she has not asked for an adjournment or a hearing. This is a mandatory review. Ms Duhaney has been contacted by Social Work England several times requesting any information she wishes to place before the review panel. She had not responded. Having weighed the interests of Ms Duhaney with those of Social Work England and the public interest in an expeditious disposal of this matter, the panel decided that she has voluntarily absented herself. It decided that it was fair and appropriate to proceed in her absence and to conduct a review of the final order as a meeting.

Review of the current order:

9. 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). The current order is due to expire at the end of 21 July 2024.
10. The panel accepted the advice of the legal assessor. He reminded it that it is not reviewing any facts but reviewing Ms Duhaney's fitness to practice as of today. It should be mindful of the guidance from Social Work England on assessing fitness to practice and in CHRE v NMC and Grant [2011] EWHC 927 (Admin). It should consider the central issue of insight and whether there has been any remediation by Ms Duhaney of her practice. If Ms Duhaney's fitness to practice remains impaired the panel should next consider the Social Work England's sanctions guidance and decide upon the appropriate sanction, mindful it must act proportionately.

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

1. *Whilst employed as a social worker for Gloucestershire County Council in the period between May 2018 and November 2018:-*
 - a. *You did not adequately progress and/or record your progression of safeguarding investigations in relation to one or more of the service users identified in Schedule 1;*
 - b. *You did not ensure that one or more staff members were appropriately supervised, in that you;*
 - i. *Did not ensure that one or more of your supervisees were receiving supervision at a minimum of once a month;*

- ii. *Did not provide supervision notes to staff promptly on one or more occasions;*
 - iii. *Did not identify and/or address concerns in relation to the practice of your supervisee SW.*
2. *By your actions at paragraph 1a above you failed to ensure that service users were appropriately safeguarded*

The final hearing panel on 23 June 2023 decided the following with regard to impairment:

Ms Duhaney has made no further meaningful response since this submission in March 2022. In this email, the panel found that she expressed remorse and concern for service users. To an extent she has acknowledged her failings and the impact of her performance on service users and on colleagues. Whilst the panel recognised that Ms Duhaney has many years of service in a senior role, it found that despite support she was not able to remedy and improve her practice at the material time.

[Ms Duhaney's line manager] said that Ms Duhaney had been willing to try to improve her practice, but had not, despite the support provided, been able to do so. Whilst the panel found that Ms Duhaney has in the past shown some, albeit limited, insight, it currently has before it no up to date evidence of insight or reflection from Ms Duhaney on the serious findings identified in this hearing.

The panel found that the misconduct found is remediable. However, it has no evidence before it demonstrating any remediation. Ms Duhaney had not meaningfully engaged in this process and that leaves the panel with no up to date evidence of remorse or insight and no information of any attempts at remediation. Although the panel noted the difficulties Ms Duhaney's then health issues may have caused her during the material time, it concluded in these circumstances that there is a real risk of repetition of the misconduct. The panel concluded that on the personal element of impairment, Ms Duhaney's fitness to practise is currently impaired.

Given its findings, the panel decided that it was necessary to make a finding of impairment in order to maintain public confidence in the profession and the regulator, and to uphold and declare proper professional standards. The misconduct placed service users at risk of harm. There was a sustained failure to progress and record the progression of safeguarding investigations, coupled with a significant and repeated failure to supervise and take responsibility for unqualified supervisees who were essentially left by Ms Duhaney to try to progress the investigations.

The panel decided that in all these circumstances public confidence in the social work profession would be seriously undermined were Ms Duhaney's fitness to practise not found to be currently impaired.

The panel concluded that Ms Duhaney's fitness to practise to be currently impaired on the both the personal element and on the wider public interest element.

The final hearing panel on 23 June 2023 decided the following with regard to sanction

11. The panel at the original hearing next considered sanction and it decided to impose a 12 month Suspension Order stating:-

"The panel was of the view that in light of the seriousness of the case that taking no action, Advice or a Warning would not be sufficient or proportionate sanctions. Such sanctions would not protect the public, would fail to reflect the gravity of the findings, would undermine public confidence in the profession and fail to uphold proper professional standards.

The panel next considered whether it could devise workable, realistic and proportionate conditions of practice. The panel was mindful that Ms Duhaney has not engaged in these proceedings, and it has no information about her current circumstances. She has expressed a desire to leave the Register. In these circumstances the panel can have no confidence that she would be willing or able to comply with any conditions. In addition, the panel was mindful that a PIP and support was put in place in 2018 but did not succeed in improving Ms Duhaney's professional practice and that service users were nonetheless placed at risk of harm. The panel therefore concluded that conditions of practice were not appropriate or proportionate in this case. In any event, the panel could not formulate realistic and workable conditions that would effectively manage the misconduct found.

The panel next considered a Suspension Order. The panel has found that Ms Duhaney has previously shown some insight. There was evidence that she had been suffering from health conditions at the time of the allegations that had resulted in a lengthy period of absence from her role just prior to this, and that she had returned to work in April 2018. The panel found the health issues at the time of the allegation were a powerful mitigating factor. The panel was mindful of paragraph 149 of the Sanctions Guidance. It found that, other than the possibility of Ms Duhaney being unwilling or unable to remediate, none of the factors listed apply. This case is not at the most serious end of the scale of seriousness. The findings are not of a gravity or nature that nothing less than a Removal Order would be appropriate or proportionate. The public will be fully protected by a Suspension Order and it will serve to maintain public confidence in the profession.

The panel also noted Ms Duhaney's long career in social work and the senior position she had achieved at the time of the allegations. It has not been alerted to any previous fitness to practise concerns relating to her. As well as protecting the public and the public interest, the panel concluded that a period of suspension would also afford Ms Duhaney a further opportunity to reflect on the events of 2018, as well as the findings of this panel. She would have time to consider if she does wish to return

to social worker practice. If that turns out to be the case, a year's suspension would further enable Ms Duhaney an opportunity to refresh her skills and remediate deficiencies in her practice.

The panel concluded that a one-year Suspension Order was the proportionate sanction in all the circumstances of this case. The panel found that a one-year suspension would be proportionate and would appropriately mark the gravity of the findings."

Social Work England submissions:

12. The panel considered the submissions in the notice of hearing on behalf of Social Work England as follows:

"Subject to any further evidence or submissions received from the Social Worker prior to, or at the review hearing, Social Work England will invite the Panel to replace the Suspension Order with a Removal Order.

Since the implementation of the Suspension Order, and for some time prior to that, the Social Worker has failed to engage with the investigation process or the recommendations by the Panel at the substantive hearing.

She has failed to produce any documentation that would demonstrate that she is actively taking steps to address any of the concerns raised. In the absence of any new material it is submitted that there is no evidence to support that she has developed insight or that remediation is complete.

Therefore, the concerns as to her fitness to practise remain. Further, it is clear from the letter provided to the previous Panel dated May 2022, that the Social Worker intended to retire and there is no suggestion since then that this position has changed.

On that basis, the Panel are invited to consider that the Social Worker remains impaired as set out at the final hearing and that a Removal Order is appropriate in the circumstances."

Panel decision and reasons on current impairment:

13. 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 account of the decision of the original panel. It exercised its own judgement in relation to current impairment. The panel accepted the advice of the legal assessor and took account of Social Work England's 'Impairment and sanctions guidance'. In reaching its decision, the panel was mindful of the need to protect the public and the wider public interest in declaring and upholding proper standards of behaviour and maintaining public confidence in the profession.
14. The panel considered all the information before it. Ms Duhaney has not engaged and there is nothing from her since the suspension order was imposed on 23 June 2023. She has provided nothing for the panel to consider. There is no evidence of any steps taken to

remedy her fitness to practise and no evidence of any further reflection or insight. There has been no further meaningful response since Ms Duhaney's submission in March 2022 which was considered by the original panel. Ms Duhaney has advised that she intends to retire.

15. In these circumstances there is nothing to demonstrate any remediation of her practice. The panel therefore concluded that there remains a significant lack of insight and real a risk of reputation of the misconduct. The panel concluded that Ms Duhaney's fitness to practise remains currently impaired.

Decision and reasons on sanction:

16. Having found Ms Duhaney's fitness to practise is currently impaired, the panel considered what, if any, sanction it should impose. The panel had regard to the submissions made as well as all the information before it and the sanctions guidance.
17. Social Work England invited the panel to consider imposing a Removal Order. The panel decided that the misconduct proved was serious and carried a real risk of harm to service users. Ms Duhaney failed to safeguard a number of service users and, despite support, her professional conduct fell far short of what was acceptable. As such the panel agreed with the original panel when it stated: *"The panel was of the view that in light of the seriousness of the case that taking no action, Advice or a Warning would not be sufficient or proportionate sanctions. Such sanctions would not protect the public, would fail to reflect the gravity of the findings, would undermine public confidence in the profession and fail to uphold proper professional standards."*
18. The panel was mindful of the lack of engagement by Ms Duhaney and her expressed desire to retire. The panel know nothing of her current circumstances. In such circumstances it was not possible to devise realistic, workable and proportionate conditions of practice. To impose conditions would fail to protect the public and would undermine public confidence in the profession.
19. Despite prompting by Social Work England to engage and to provide information for this review, such as evidence of remediation and reflection, Ms Duhaney has not replied and had not engaged. That is her choice. She has demonstrated that she is unwilling or unable to remedy her practice. The panel considered a Suspension Order but, given the complete lack of any engagement by Ms Duhaney over the last 12 months, the panel decided that to impose a further period of suspension would not be appropriate and achieve nothing.
20. The panel therefore decided that, in all the circumstances of this case, it was now appropriate and proportionate to impose a Removal Order and to remove Ms Duhaney's name from the register. The panel was satisfied it could do so as fitness to practise was originally found impaired on the basis of misconduct. The Removal Order will take effect on the expiry of the Suspension Order.

Right of appeal:

21. 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.
22. 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.
23. 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.
24. This notice is served in accordance with Rules 44 and 45 of the Fitness to Practise Rules 2019 (as amended).

The Professional Standards Authority

25. 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>