

Social worker: Shiv Kumar Shukla
Registration number: SW38857
Fitness to Practise
Final Order Review Meeting

Date of meeting: 04 July 2024

Meeting venue: Remote meeting

Final order being reviewed: Suspension order – (expiring 17 August 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 12 months by a panel of adjudicators (appointed by Social Work England) on 20 July 2023 and coming into effect on 18 August 2023.
2. Mr Shukla 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 dated 4 June 2024.
4. The adjudicators (hereinafter referred to as “the panel”) and other people present at the meeting as set out in the table below.

Adjudicators	Role
Hermione McEwen	Chair
Glenys Ozanne-Turk	Social worker adjudicator

Hearings team/Legal adviser	Role
Jenna Keats	Hearings officer
Jo Cooper	Hearings support officer
Natalie Amey-Smith	Legal adviser

Service of notice:

5. The panel 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 4 June 2024 and addressed to Mr Shukla at their email address which they provided to Social Work England.
 - An extract from the Social Work England Register as of 4 June 2024 detailing Mr Shukla’s registered email address.
 - A copy of a signed statement of service, on behalf of Social Work England, confirming that on 4 June 2024 the writer sent by email service to Mr Shukla at the address referred to above: the notice of hearing and enclosures.

6. The panel accepted the advice of the legal adviser in relation to service of notice.
7. Having had regard to rule 16 of the Social Work England Fitness to Practise Rules (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 Shukla in accordance with rules 44 and 45.

Proceeding with the final order review as a meeting and in the absence of Mr Shukla:

8. The notice of final order review informed Mr Shukla that the review could 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 19 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.’

9. The panel received no information to suggest that Mr Shukla had responded to the notice of final order review.
10. The panel heard and accepted the advice of the legal adviser in relation to the factors it should take into account when considering whether it was fair and appropriate to proceed with the review in the absence of Mr Shukla. This included reference to the cases of *R v Jones [2003] UKPC*; *General Medical Council v Adeogba [2016] EWCA Civ 162*. The panel also took into account Social Work England’s guidance ‘*Service of notices and proceeding in the absence of the social worker*’. The panel heard and accepted the advice of the legal adviser with regard to rule 16(d) 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.’

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), and therefore proceed in Mr Shukla’s absence, on the basis that:

- Mr Shukla has had an opportunity to attend and to make written submissions within the time periods specified under rule 16 of the rules.
- In response to Social Work England asking if Mr Shukla had any evidence he wished to submit in advance of the hearing, he replied on 12 April 2023 stating:

‘I do not consider social work England fit for purpose. It has acted in a blatantly racist way against me. This is my submission after a long introspection reflection and analysis.’

Therefore, the panel concluded that Mr Shukla's non-attendance today appears to be a deliberate and voluntary action.

- Mr Shukla has not requested a postponement or adjournment, but in any event, the panel did not consider that a postponement or adjournment would result in Mr Shukla's future attendance, given the lack of his engagement in relation to the previous panel's recommendations.
- It would not be in the public interest or in Mr Shukla's interest to adjourn the mandatory review of the final order, given his previously stated view that he has no intention to return to social work.

Preliminary matters:

12. The panel heard and accepted the advice of the legal adviser in relation to holding the meeting in private. The panel was satisfied that, pursuant to rule 37 and 38 of the rules, parts of the hearing should be held in private. This was limited to those parts of the meeting and subsequent written decision in which there was mention of Mr Shukla's health.

Review of the current order:

13. 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).
14. The current order is due to expire on 17 August 2024.

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

'Whilst working as a registered social worker:

- 1) *On or about the 25 August 2021 you pleaded guilty and/ or were convicted of the Road Traffic Offence as set out in Schedule 1.*

Schedule 1 On 27 March 2021 at Slough, drove a motor vehicle, namely Silver BMW X3 on a road, [PRIVATE] after consuming so much alcohol that the proportion of it in your breath, namely 127 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit. Contrary to Section 5(1)(a) Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

The matter outlined in allegation 1 amounts to the statutory ground of conviction in the United Kingdom for a criminal offence.

Your fitness to practise is impaired by reason of conviction.'

The final hearing panel on 20 July 2023 determined the following with regard to impairment:

‘The panel had regard to the Impairment and Sanctions Guidance (“the Guidance”), dated December 2022 and the Equal Treatment Bench Book, revised in April 2023.

The panel kept at the forefront of its mind the guidelines from those publications, including and in particular paragraph 32 of the Guidance which states:

“Decision makers should be aware that a person’s culture or background may sometimes affect how insight is expressed.”

The panel had regard to the fact that Mr Shukla was speaking in a language that was not his first language, albeit noted that he is fluent in English.

The panel reminded itself that the evidence before it is that Mr Shukla is a good and experienced social worker. His abilities as a social worker and his conduct whilst at work are not in question.

Further, the panel reflected with admiration on Mr Shukla’s remarkable journey from what he described as deprived circumstances in India. He considers himself to have been a social worker from the age of 10, and the panel noted that he had started to develop social worker skills at that young age as he was teaching adults to read. His childhood had been disrupted by changes of location and he describes himself as having been a migrant since the age of 6. He undertook extensive education in India and also undertook activities such as leadership roles within the Student Union. He came to the United Kingdom in December 2006 as he wished to work with people in deprived places and to obtain international exposure. [PRIVATE] in the United Kingdom but was later joined by his [PRIVATE] and they have since had [PRIVATE]. Since he has been in the United Kingdom, Mr Shukla has dedicated much of his career to social work and presently works as a civil servant for the Home Office. Whilst in the United Kingdom he has been involved with charities and is a governor on a school board. The panel took into account his lengthy history of public service, since childhood, and the obstacles he has overcome to achieve so much in his education and career.

The panel took into account the positive testimonials that he relied upon, and noted that there had been no challenge about his abilities as a social worker.

[PRIVATE] Further, the panel accepted that the delay between his self-referral to Social Work England in April 2021 and the final hearing in July 2023 had been upsetting for him. The panel had no doubt that he wishes to put the episode behind him and to continue with his life and social work practice.

However, the panel was statutorily required to consider, as its overarching objective, the following features:

- a. to protect, promote and maintain the health, safety and well-being of the public;*
- b. to promote and maintain public confidence in social workers in England; and*
- c. to promote and maintain proper professional standards for social workers in England.*

Mr Shukla gave an inconsistent account as to whether he accepted the wrongdoing that led to the conviction. At times he stated that he accepted full responsibility yet at others he said that he had not driven whilst under the influence of alcohol, had driven with a level of alcohol less than that assessed, had only intended to drive or had attempted to drive. He often deflected from his wrongdoing and blamed the conduct of others, such as [PRIVATE], the police, his solicitors and Social Work England.

His most regular assertion was that he had only intended to drive, and he stated that this was the offence for which he had been convicted. However, the panel rejected that entirely. The charge laid against him was for an offence contrary to section 5(1)(a) of the Road Traffic Act 1988, which makes it an offence to drive or attempt to drive whilst under the influence of alcohol. There is no offence of intending to drive. Further, as clearly specified by the memorandum of conviction, the charge relating to Mr Shukla was one of driving, rather than attempting to drive.

The panel was therefore satisfied that Mr Shukla had driven whilst over the limit, as detailed within the particulars of the charge to which he pleaded guilty. That was further evidenced by his demeanour of intoxication when apprehended by the police and the fact that he had collided with a bollard. Thereafter he has given various inconsistent accounts. According to his manager at the time, he had told her that he had not driven and that he was sleeping in his car and had the engine on to maintain warmth. He stated in his initial written response to Social Work England that the car's engine was turned off. He told the panel that he had drunk two beers before driving, which was not information he had offered previously.

It was clear to the panel that he had committed the offence and, whilst wanting the benefit of having pleaded guilty, did not want the regulatory consequences of having committed the offence.

The panel had regard to paragraph 182 of the Guidance which states:

"Where a social worker has been convicted of a criminal offence, a certified copy of the certificate or memorandum of conviction will be conclusive proof of the conviction."

Paragraph 183 provides that the panel should not give weight to a social worker arguing that they are not guilty of the offence or a social worker arguing that they did not realise what they were admitting. It provides that panels can consider surrounding circumstances but should not use these to undermine the basis of the conviction.

The panel therefore proceeded upon the fact that Mr Shukla had acted in the manner charged, to which he had pleaded guilty, specifically that on 27 March 2021 at Slough, he drove a motor vehicle, namely Silver BMW X3 on a road, [PRIVATE] after consuming so much alcohol that the proportion of it in his breath, namely 127 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit. The offence was contrary to Section 5(1)(a) Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

The panel considered that the offending behaviour was remediable. It noted that Mr Shukla self-referred to Social Work England in good time and has engaged with the fitness to practise proceedings.

It noted that the guilty plea was evidence of remediation, but that this had been significantly undermined by the fact that Mr Shukla had subsequently attempted to qualify the admissions, sought to contradict the factual nature of the offence, criticised his solicitors and asserted that he had not been fit to plead.

Mr Shukla's completion of the criminal sanction, namely the community order, is evidence of remediation. The evidence before the panel is that he completed all aspects of that order in good time. He has undertaken the drink driver's awareness course, although his stated motivation was not to remediate his actions but instead to qualify for early return of his driving licence. Within his July 2023 statement, he said that he had attended "reluctantly only to reduce the driving ban" and in his oral evidence he stated that he did not think that he would benefit from the course and that on the first day he had told the tutor that regimental training did not help people. It was only on the second and third day of the three-day course that he started to appreciate the benefits.

Mr Shukla has not attended any other courses in relation to driving, decision making or relationship with alcohol [PRIVATE]. The panel considered those to be notable omissions given that his offence of drink driving was an impulsive action, upon having an argument with [PRIVATE].

[PRIVATE]

[PRIVATE]

[PRIVATE]

The panel was therefore satisfied that, whilst there was some evidence of remediation, it was limited.

The panel then considered whether Mr Shukla had developed insight into his actions, and again had paragraph 32 of the Guidance at the forefront of its mind.

It also considered paragraph 31:

“There is a greater risk of repetition if the social worker fails to fully understand what they have done wrong (and why it is wrong).

The social worker can demonstrate their insight through (any of the following):

- *their engagement with the process*
- *their submissions during the investigation and prior to a hearing*
- *any remediation or reflection they have done regarding the concerns*
- *anything they may set out in written submissions or say at a hearing*

Demonstrating complete insight will help to assure decision makers that there is minimal risk of repetition.”

Despite Mr Shukla engaging with the fitness to practise process, the panel was satisfied that there was a worrying lack of insight, despite the lengthy period of time between the offending behaviour in March 2021 and the hearing, almost 2 ½ years later. Whilst Mr Shukla stated that he took full responsibility for his wrongdoing, he then denied the offence and sought to deflect attention to others, as outlined at paragraph 50, above.

He also sought to minimise his offending by telling the panel that the Magistrates’ Court had given him the minimum sentence and that the 30-month disqualification was the least that they could impose. That is factually incorrect. The least disqualification for an offence of drink driving was 12 months, but that would generally only be imposed where the breath test is only slightly above the limit of 35 microgrammes of alcohol in 100 millilitres of breath. There is no minimum sentence and a fine, rather than a community sentence, may be imposed in appropriate circumstances. Mr Shukla was given a disqualification and a community order that was consistent with the publicly accessible Magistrates’ Sentencing Guidelines, effective from 24 April 2017. The sentence reflected the level of alcohol in his breath. He was considered within the category where the level of alcohol in breath is between 120 to 150 microgrammes of alcohol in 100 millilitres of breath.

The panel had regard to paragraph 46 of Social Work England’s impairment and sanction Guidance:

“The social worker should immediately start to review what has gone wrong after the events have taken place. They should also review what they need to do to prevent repetition. Ideally, insight and successful remediation should take place as early as possible. The earlier it takes place, the greater weight it will carry when the decision makers are making a decision as to impairment.”

There is no evidence of early development of insight as Mr Shukla failed to answer questions asked by the police. Whilst he states that he was shocked, this in itself would not have

precluded him from being capable of giving an account of events and answering questions asked of him. He had not been assessed as unfit for interview.

He outlined some of the benefits of the drink driver's awareness course. He recalled that he was told that the taking of alcohol, even in small quantities, increases the risk of an accident by four times. He stated an appreciation that drink driving can lead to death. He said that all new drivers should be required to attend the course. However, the panel accepted Ms Ferrario's submission that the development of that insight, during the course in May 2023, which he had attended believing it would be of no benefit, was far from timely and that it was concerning that he had not developed that insight earlier.

[PRIVATE]

Mr Shukla failed to explain how he could have acted differently and how he would act differently if again in a similar situation in the future. He has failed to adequately acknowledge that he had acted impulsively or the impact that alcohol had on his behaviour. He failed to demonstrate an understanding that those areas required intensive attention to avoid repetition.

Whilst Ms Shukla did express some understanding that his actions had undermined public confidence in the social work profession and proper professional standards, this was significantly undermined by his comments about Social Work England. He said that he was "bitter" and "angry" about the regulatory proceedings and stated that his time had been "wasted". He called proceedings a "charade" and a "circus". He criticised the investigation and many of the questions asked by Ms Ferrario and some of the questions asked by the panel.

His protestation that he was being treated unfairly demonstrated a significant lack of understanding of the consequences to public confidence of social workers committing criminal offences of the type that can lead to injury and death of members of the public.

The panel considered paragraph 33 of the Guidance:

"Decision makers should consider different aspects of insight, such as (all of the following):

- whether the social worker understands what led to the events which are the subject of the concern*
- whether the social worker recognises what went wrong*
- whether the social worker accepts their role and responsibilities in relation to the events*
- whether the social worker appreciates what could (and should) have been done differently*
- whether the social worker has addressed how they might act or react differently if the same circumstances were to happen again (to avoid reoccurrence of similar concerns)"*

To some extent, Mr Shukla demonstrated understanding of events that led to his offending and recognised that his actions were wrong. However, as outlined above, he has failed to appreciate and explain how he could have acted differently or how he would act differently if similar circumstances were to happen again.

The panel therefore concluded that Mr Shukla's insight was far from complete and was extremely limited.

The panel considered the risk of repetition, as required by the Guidance:

"23. Decision makers should explore whether there is risk of repetition (now or in the future). This also links to the social worker's level of insight and their capacity to remediate.

24. Decision makers should explore in depth whether the social worker has reflected and acted on what went wrong after the incident, to prevent risk of repetition."

It reminded itself that Mr Shukla had not offended before or since, albeit noted that he has not yet had his driving licence returned to him.

The panel considered that the events of 26 March 2021 was as a consequence of his unreasonable and impulsive actions. Mr Shukla stated that [PRIVATE] had improved since the time of the offence. However, the panel noted that the offence had occurred after his [PRIVATE] had asked him to transfer some money. Despite work, [PRIVATE] and lockdown pressures, that does not appear to have been an unreasonable or unusual request, particularly in circumstances where he had already agreed to the transfer being made. Transferring money takes very little time. His response, in leaving the house to avoid arguing with [PRIVATE] was wholly disproportionate. His behaviour in leaving the house and driving whilst under the influence of alcohol demonstrates impulsive and dangerous behaviour. The impulsivity of his actions is further evidenced by the fact that he had intended to drive to a friend's house, before then realising that this would break lockdown rules.

The panel therefore considered that, unless the risk of impulsive behaviour was not significantly addressed and reduced, he would remain at significant risk of re-offending.

The panel noted that Mr Shukla continues to act impulsively [PRIVATE]. This was evidenced by his manner throughout the first two days of the proceedings. The panel observed numerous outbursts from Mr Shukla in which he intimated that he was discriminated against because of race, that Social Work England had acted improperly and, on one occasion, stated that he no longer wished to continue with the hearing and that he intended to return to India.

The panel concluded that he remains prone to irrational and impulsive behaviour [PRIVATE]. The panel concluded that there was a high risk of repetition of the behaviour that resulted in his conviction.

The panel was therefore satisfied that a current finding of impaired fitness to practise was necessary to protect the public.

The panel was satisfied that a well-informed member of the public and social work profession would be extremely concerned with Mr Shukla's criminal offence and would be appalled by his behaviour and conduct during the fitness to practise hearing. He showed contempt towards Social Work England, his regulator, throughout his evidence and submissions.

The panel rejected the assertion that Mr Shukla had been treated unfairly. Whilst it noted that the process had been stressful, upsetting and lengthy, it reminded itself of the decision in Bolton v Law Society [1994] 1 WLR 512 in which the Court of Appeal held that

"The reputation of the profession is more important than the fortunes of any individual member. Membership of a profession brings many benefits, but that is part of the price."

The panel was therefore satisfied that public confidence in the social work profession and proper professional standards would be significantly undermined if a finding of impaired fitness to practise were not made. The panel took into account the serious nature of the offending behaviour and the lack of subsequent insight or remediation.

In conclusion, the panel considered that a finding of current impairment is necessary for the following:

- a. to protect, promote and maintain the health, safety and well-being of the public;*
- b. to promote and maintain public confidence in social workers in England;*
- and c. to promote and maintain proper professional standards for social workers in England.'*

The final hearing panel on 20 July 2023 determined the following with regard to sanction:

'The panel accepted the advice of the legal adviser, that it must again pursue the overarching objective when exercising its functions, in order to protect the public and maintain and promote public confidence in social workers and proper professional standards. The panel must apply the principle of proportionality, balancing Mr Shukla's interests with the public interest. The purpose of a sanction is not to be punitive, although a sanction imposed may have a punitive effect. The panel considered the least restrictive sanction first and then moved up the sanctions ladder as appropriate.

The panel had regard to the Social Work England Impairment and Sanctions Guidance, published in December 2022 ("the Guidance") and the Judicial College Equal Treatment Bench Book, together with its determination on grounds and impairment.

The panel reminded itself that it had concluded that Mr Shukla's fitness to practise is currently impaired, due to conviction.

Mr Shukla relied on various testimonials and appraisals and the panel noted that they speak positively of his character and commitment to social work. That is consistent with the fact that, prior to the Allegation, he had a 14-year unblemished career in social work. The panel noted that, in any event, there was no challenge to his abilities as a social worker.

In relation to mitigating features, the panel noted that Mr Shukla has expressed some remorse and some developing insight and remediation. He admitted the regulatory concern, albeit then challenged the conviction. As detailed above, he has had no previous regulatory findings against him and there is testimonial evidence of his commitment to, and abilities in, social work. His commitment to public service is demonstrated by his hitherto decade and a half of unblemished social work practice and the fact that, since leaving the Council, he has obtained work as a civil servant within the Home Office. It is further evidenced by his charitable and voluntary roles. The conviction relates to one isolated incident.

In relation to aggravating features, the panel noted the seriousness of the criminal offence and the level of intoxication. Mr Shukla was almost four times over the prescribed limit for alcohol. Whilst no person was hurt, he did have a collision with a bollard. Developing, but only very limited, insight and remediation has been evidenced by Mr Shukla during his written and oral evidence. He sought to challenge the nature of his offending, minimise his culpability and deflected from his wrongdoing to impugn the integrity of the police, his legal representatives, the Magistrates' Court, his union and Social Work England.

The panel did not consider his disengagement with the hearing at the sanctions stage to be an aggravating feature.

The panel considered that taking no action, or issuing advice or a warning, would not reflect the serious nature of Mr Shukla's misconduct. They would not adequately protect the public as they would not restrict his practice. A social worker makes important decisions that affect vulnerable service users and impulsivity may have the consequence of wrong and damaging decisions being made. The panel had assessed there to be a real and present risk of repetition, and so considered that the public cannot currently be adequately protected unless Mr Shukla's practice is restricted.

The panel took into account paragraph 76 of the Guidance, which states:

"In some cases, the decision makers may determine that the social worker's impairment poses a current risk to public safety. If so, it may be reasonable to move beyond the lower sanctions (no action, advice or a warning) on this basis alone. This is because these outcomes will not address the risk to the public as they do not restrict the social worker's practice."

Further, the panel considered that taking no action, or issuing advice or a warning, would not maintain public confidence in the profession or promote proper professional standards in light of the particularly serious nature of the misconduct, Mr Shukla's lack of adequate remediation and insight, and his conduct throughout the regulatory hearing.

The panel next considered whether a conditions of practice order would be sufficient to protect the public and wider public interest. The panel noted paragraph 114 of the Guidance which provides that conditions of practice may be appropriate in cases where the failure is capable of being remedied and the social worker has demonstrated insight. As determined above, Mr Shukla's failings are remediable. However, the panel reminded itself that it had concluded that there had been inadequate insight and remediation demonstrated by Mr Shukla in relation to his criminal conviction and his circumstances at the time of that conviction.

The panel also reminded itself of the findings at the grounds and impairment stage that Mr Shukla poses a significant risk of repetition. The panel considered paragraph 116 of the Guidance, which states:

"When considering public protection, decision makers must fully assess insight and the social workers past engagement with the regulator and any employer. This should help to determine whether the social worker can comply with conditions of practice."

Given the assessed risk of repetition and the absence of adequate insight and remediation, the panel was satisfied that workable conditions could not be formulated to adequately protect the public.

Further, the panel noted Mr Shukla's dismissive attitude towards Social Work England and the regulatory proceedings. The panel was therefore not satisfied that he would comply with conditions if they were imposed upon him.

Additionally, the panel was satisfied that, in light of the nature of the conviction, paragraph 118 of the Guidance applies. That paragraph states that conditions may not be appropriate in cases of character, attitude and behavioural failings and cases raising wider public interest issues. The panel considered that the offending behaviour demonstrated attitudinal failings and that there is a clear public interest in social workers adhering to the law.

The panel was satisfied that a suspension order would be appropriate and proportionate in all of the circumstances. It found that all of the features identified within paragraphs 136 and 137 of the Guidance were applicable to Mr Shukla:

"136. Suspension is appropriate where (both of the following apply):

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

137. Suspension may be appropriate where (all of the following):

- the concerns represent a serious breach of the professional standards*
- the social worker has demonstrated some insight*

- *there is evidence to suggest the social worker is willing and able to resolve or remediate their failings”*

The panel was satisfied that the case did fall short of requiring removal from the social work register at this stage as there was some, albeit very little, evidence of developing insight into misconduct that was remediable. Mr Shukla expressed some remorse and an understanding of the impact of his conviction upon public confidence in the social work profession. Whilst that was undermined by his subsequent conduct during the hearing, it does show some willingness to resolve and remediate his offending.

The panel considered that there was a prospect that, with time, he may reflect and develop insight and remediation. This would reduce the risk of repetition and therefore reduce his risk of harm to the public.

The panel was satisfied that it was in the public interest to allow Mr Shukla the opportunity to develop insight and remediation into his actions. If he takes the opportunity, he may then demonstrate a reduced risk of repetition. He may then be able to utilise his skills and experience to undertake important public service work.

The panel considered that well informed and reasonable members of the public and the social work profession would accept that this opportunity should be provided to a social worker whose abilities have been described positively in testimonials and who has had no previous regulatory findings against them. That is consistent with paragraph 141 of the Guidance, which provides:

“It is in the public interest to support a trained and skilled social worker to return to practice (if this can be achieved safely). This means the risk of deskilling is a public interest consideration. However, decision makers should also take into account that suspension orders are automatically reviewed before expiry. If the suspension period is too short, this may not allow the social worker to meaningfully demonstrate their improvement prior to the review.”

The panel considered paragraph 148 of the Guidance, which provides:

“A removal order must be made where the decision makers conclude that no other outcome would be enough to ... protect the public, maintain public confidence in the profession, maintain proper professional standards for social workers in England.”

The panel found that, in all of the circumstances, removal from the social work register was not the only outcome that would protect the public, maintain public confidence in the profession and promote proper professional standards.

When considering the length of suspension, the panel had regard to paragraph 140 of the Impairment and Sanctions Guidance:

“In deciding on the period of suspension, decision makers should balance (both of the following):

- *The need to protect the public and the wider public interest*

- *The risk that prolonged suspension may result in a social workers skills declining (or ‘deskilling’)*”

Paragraph 142 of the Guidance provides:

“Suspension up to one year may be appropriate if the suspension’s primarily [sic] aim is (one or both of the following):

- *maintaining confidence in the profession*
- *ensuring the professional standards are observed”*

The panel determined that a suspension of 12 months would be appropriate in all of the circumstances and would be faithful to the Guidance. The panel was satisfied that this was sufficient time for Mr Shukla to reflect upon the regulatory concerns and to develop insight and remediation in relation to his actions. It would also give him an opportunity to reflect upon the necessity of regulators protecting the public and wider public interest and for him to reconsider and reflect on whether he has been treated unfairly. The period would allow time for him to demonstrate a reduced risk of repetition.

In light of the lack of remediation and insight evidenced since the criminal offence over two years ago, the panel considered that a 12-month period was necessary for Mr Shukla to develop adequate insight and remediation; to reduce the risk of repetition; and to mark the seriousness of the offending behaviour in order to maintain public confidence in the profession and promote proper professional standards. However, the panel considered that an order longer than 12 months would be disproportionate at this stage and would result in a real risk of deskilling. The panel was also mindful that, at the end of any period of suspension, the burden will be on Mr Shukla to demonstrate that his fitness to practise is no longer impaired.

The panel acknowledged the suspension order will prevent Mr Shukla from working as a social worker and, as a consequence, he may be caused financial and professional hardship, together with distress. However, the panel determined that in all of the circumstances, and in consideration of Bolton v Law Society, the need to protect the public and wider public interests far outweighed Mr Shukla interests, who, in any event, has secured alternative employment.

In conclusion, the panel considered that a suspension of 12 months is proportionate and appropriate for the following:

- a. to protect, promote and maintain the health, safety and well-being of the public;*
- b. to promote and maintain public confidence in social workers in England; and*
- c. to promote and maintain proper professional standards for social workers in England.*

The suspension order will be reviewed before it is due to expire and the panel considered that the review panel will foreseeably be assisted by the following:

a. A reflective statement by Mr Shukla focusing on his own wrongdoing, how he should have acted differently and how he would act in similar circumstances in the future. The reflective statement should also outline his understanding of the need for regulated professionals to have their fitness to practise scrutinised in circumstances such as his own. He should reflect on whether his criticism of others has been justified;

b. [PRIVATE]

c. Updated testimonials from people who know of these regulatory findings and addressing Ms Shukla's character, abilities and commitment to social work. [PRIVATE]

d. Evidence that Mr Shukla has maintained his skills and knowledge, by way of non-registered work and / or by training and learning;

e. Evidence of continued professional development; and

f. Mr Shukla's attendance at the review hearing.

Mr Shukla should understand that if he fails to develop his insight and remediation, together with an appreciation of why it is in the public interest for him to be subject to rigorous regulatory proceedings, a review panel may determine that his fitness to practise remains impaired and that removal is the only possible outcome. He should be aware of paragraph 146 of the Guidance, which states that in the absence of improved insight or other remediation upon review, a removal order may be an appropriate sanction.

Social Work England submissions:

15. The panel received written submissions from Social Work England set out in the notice of hearing letter dated 4 June 2024. The letter set out the following submissions:

'Social Work England invite the Panel to replace the Final Suspension Order with a Removal Order on the basis that it is necessary to protect the public and in the wider public interest.

The final hearing panel noted that the Social Worker's conduct is remediable, and that there was no suggestion his performance as a social worker was anything other than positive. The Panel found as aggravating factors that the Social Worker has "worrying" and "limited" insight. The Panel was also concerned that there was no effective plan to address his impulsive behaviour, noting in particular that his behaviour during the hearing was disrespectful and disruptive. Given the assessed risk of repetition, the Social Worker's dismissive attitude towards Social Work England and the absence of adequate insight and remediation, the Panel held that workable conditions could not be formulated to adequately protect the public. The 12 months' suspension was intended as an opportunity for the Social Worker to address his lack of insight and remediation.

The Social Worker has not used the period of the current suspension order to reflect, develop insight or to remediate. Since the Final Suspension Order was imposed, the Social Worker has stated an intention to voluntarily remove himself from the register. He has engaged only to the extent that he has communicated with Social Work England's Case Review Team. Set

against the previous panel's recommendations for the Social Worker's preparation for this review hearing, the Social Worker has carried out none of the following:

a. A reflective statement focusing on his own wrongdoing, how he should have acted differently and how he would act in similar circumstances in the future. The reflective statement should also outline his understanding of the need for regulated professionals to have their fitness to practise scrutinised in circumstances such as his own. He should reflect on whether his criticism of others has been justified;

b. [PRIVATE]

c. Updated testimonials from people who know of these regulatory findings and addressing his character, abilities and commitment to social work. [PRIVATE]

d. Evidence that he has maintained his skills and knowledge, by way of non-registered work and / or by training and learning; and

e. Evidence of continued professional development.

It is also anticipated that the Social Worker will not be in attendance at the review hearing, contrary to the previous panel's recommendation.

The Social Worker was written to with encouragement to engage on 5 September 2023 and 12 April 2024. On 5 September 2023, the Social Worker informed Social Work England that he had moved to India. The most recent communication from the Social Worker is an email of 12 April 2024 in which he states "I do not consider social work England fit for purpose. It has acted in a blatantly racist way against me. This is my submission after a long introspection reflection and analysis". It is submitted that there is no basis to reasonably believe a further period of suspension is likely to result in any improvement.

The Panel are therefore invited to find that the Social Worker's fitness to practise remains impaired, as it was at the time of the Final Hearing. Absent any intention to remediate, and given the indication of a desire to no longer be registered, Social Work England submit that a Removal Order is now the appropriate and proportionate sanction.'

Social worker submissions:

16. Mr Shukla did not attend the meeting, nor did he provide written submissions prior to the meeting for the panel's consideration. However, the panel was provided with various documents in the bundle containing Mr Shukla's views. These included:

- Emails from Mr Shukla to Social Work England dated 30 August 2023.
- Voicemails from Mr Shukla to Social Work England dated 30 August 2023 and 31 August 2023.
- Voicemail from Mr Shukla to Social Work England dated 1 September 2023.
- Telephone attendance note of conversation between Mr Shukla and Social Work England on 5 September 2023.

- Email from Mr Shukla to Social Work England dated 12 April 2024.
- Email from Mr Shukla to Social Work England dated 1 May 2024.

Panel decision and reasons on current impairment:

17. In considering the question of current impairment, the panel undertook a comprehensive review of the final order in light of 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.
18. The panel took into account Social Work England's '*Impairment and sanctions guidance*' ("Sanctions guidance") dated 19 December 2022.
19. The panel received and accepted the advice of the legal adviser, which it incorporated into the decision set out below.
20. It reminded itself of the importance of a review hearing, and it followed the sequence of decision making set out by Blake J in *Abrahaem v General Medical Council* [2008] EWHC 183:
 - Address whether the fitness to practise is impaired before considering conditions.
 - Whether all the concerns raised in the original finding of impairment have been sufficiently addressed to the panel's satisfaction.
 - In practical terms there is a persuasive burden on the practitioner at a review to demonstrate that he or she has fully acknowledged why past professional performance was deficient and through insight, application, education, supervision, or other achievement sufficiently addressed the past impairments.
21. The panel had regard to the over-arching objective of protecting the public which involves the pursuit of the following objectives:
 - To protect, promote and maintain the health, safety, and well-being of the public.
 - To promote and maintain public confidence in the profession.
 - To promote and maintain proper professional standards of conduct for members of the profession.
22. It also bore in mind that in deciding whether Mr Shukla's fitness to practise is still impaired it should follow the approach of Dame Janet Smith endorsed by the High Court in *CHRE v NMC and P Grant* [2011] EWHC 927 (Admin). Do our findings of fact in respect of the (registrant's) misconduct, deficient professional performance, adverse health, conviction, caution, or determination show that his/her fitness to practise is impaired in the sense that s/he:
 - Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or

- has in the past brought and/or is liable in the future to bring the ... profession into disrepute; and/or
- has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or
- has in the past acted dishonestly and/or is liable to act dishonestly in the future.

23. The panel first considered whether Mr Shukla's fitness to practise remains impaired. It kept in mind that there had already been a finding of impairment and asked itself whether Mr Shukla had demonstrated that he had taken sufficient steps to allay the concerns of the previous panel.

24. The panel concluded that Mr Shukla's fitness to practise remains impaired, having regard to both the personal and the public interest for the same reasons as the final hearing panel. Mr Shukla has only partially engaged with Social Work England since the final hearing and has provided no evidence of any steps taken towards compliance with the recommendations of that panel. Whilst it is not mandatory for Mr Shukla to have adhered to those recommendations, the panel considered that even with a suspension order in place, the recommendations would have enabled and assisted Mr Shukla to provide relevant information for the review.

25. The last reviewing panel decision set out that Mr Shukla *'should understand that if he fails to develop his insight and remediation, together with an appreciation of why it is in the public interest for him to be subject to rigorous regulatory proceedings, a review panel may determine that his fitness to practise remains impaired and that removal is the only possible outcome. He should be aware of paragraph 146 of the Guidance, which states that in the absence of improved insight or other remediation upon review, a removal order may be an appropriate sanction.'* Despite this, Mr Shukla has not provided any evidence for this panel to review. The panel has no information in relation to Mr Shukla's reflections on the findings, no evidence of insight from him to say how he could have acted differently, and no new evidence of remediation including how he has maintained his skills and knowledge. In the voicemail left for Social Work England on 30 August 2023, Mr Shukla states that, [PRIVATE].

26. Whilst Mr Shukla has engaged with Social Work England to a certain extent, as outlined in paragraph 16, the panel noted that these communications largely centred on his perception that there had been an injustice towards him by Social Work England. Further, they detail on several occasions that Mr Shukla does not wish to return to social work practice. By way of example, the voicemail dated 30 August 2023, states:

'I'm not interested in getting registered again with Social England. I [sic] I've given up on social work here in this country.'

27. In the circumstances, the panel concluded that there is a significant ongoing risk of repetition of the behaviour (as found proved by the final hearing panel). The panel noted that the behaviour as set out in the final hearing decision was serious, relating to committing a criminal offence of the type that can lead to injury and death of members of

the public. The panel concluded that there has been no evidence of change since the final hearing that would reduce the risk of repetition, and that there is an ongoing risk of harm to members of the public.

28. Further, considering Mr Shukla's lack of evidenced insight and remediation, together with his lack of constructive engagement in this review hearing, the panel concluded that a failure to find Mr Shukla impaired would undermine public confidence in the profession and the regulator.

Decision and reasons:

29. Having found Mr Shukla'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 before it, and accepted the advice of the legal adviser having particular regard to the Social Work England 'Sanctions guidance' previously mentioned in this decision.
30. The panel kept in mind that sanction is a matter for its own independent judgment, and that the purpose of a sanction is not to punish Mr Shukla but to protect the public.
31. It reminded itself that the protection of the public includes not only maintaining the health, safety, and well-being of the public but also maintaining public confidence in the profession and promoting and maintaining proper professional standards of conduct for members of the profession.
32. Furthermore, a sanction must be proportionate, so that any order that it makes should be the least restrictive order that would suffice to protect the public and the public interest.
33. The panel concluded that the criminal behaviour demonstrated by Mr Shukla continued to have the potential to have adverse consequences for the public and the wider public interest, and therefore some restriction on his practice is required. As a result, the panel concluded that options that would not restrict practice would be inappropriate and insufficient to meet the public interest.
34. The panel considered whether a conditions of practice order could be imposed. The panel had regard to the Sanctions guidance and took into account that, '*Conditions of practice are less likely to be appropriate in cases of character, attitude or behavioural failings. They may also not be appropriate in cases raising wider public interest issues.*' The panel considered that Mr Shukla's criminal conviction, for which he has demonstrated limited insight and reflection, is a behavioural failing and there remains a risk of repetition. Mr Shukla has also shown a disregard for Social Work England and its regulatory role in protecting the public, perceiving it as showing racial bias towards him. The panel was not satisfied that he would be willing or able to comply with conditions of practice if any could be formulated given his stance in relation to the regulator. Alongside this, Mr Shukla has also indicated that he does not wish to return to social work practice, and he discussed applying for voluntary removal with Social Work England, for which he was sent the relevant application to complete. In the circumstances the panel concluded that it could not formulate any workable conditions which would sufficiently protect the public and the wider public interest.

35. The panel next considered the option of extending the current suspension order. Whilst the panel acknowledged that the final hearing had found Mr Shukla to be in the early stages of developing insight, it had still found that a risk of repetition remained. The final hearing panel provided, what this panel consider to be, clear and reasonable recommendations as to how Mr Shukla could seek to demonstrate at a review, his developing insight and remediation, which might then demonstrate a reduced risk of repetition. Despite this, Mr Shukla appears to have disengaged with the process of seeking to address his failings. The panel had no evidence to suggest Mr Shukla is willing and able to resolve or remediate his failings. His failure to constructively engage with this review process appears entirely consistent with his indications that he does not want to return to social work practice.
36. The panel considered that Mr Shukla has been given a full opportunity to demonstrate that he is willing to remediate, including several reminder emails from Social Work England about the previous panel recommendations and whether he wants to provide any evidence or submissions. Not only has he not provided any evidence, he has also not provided any evidence to suggest that there have been circumstances or barriers preventing him from taking any of the steps recommended by the final hearing panel.
37. In the circumstances, the panel decided that there was little prospect that if the panel were to impose a suspension order, Mr Shukla would engage with Social Work England or provide evidence for a future review hearing. In the panel's judgment the imposition of a suspension order would serve no purpose. It is not in the public interest for the panel to impose a suspension order in circumstances where there is no realistic prospect that Mr Shukla will constructively engage with his regulator. The panel concluded that a suspension order would not be appropriate or sufficient to protect the public or meet the public interest

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

Removal order

38. The panel was satisfied it could consider a removal order, as this sanction was available to the final hearing panel as Mr Shukla's fitness to practise was originally alleged to have been impaired on the basis of his criminal conviction.
39. The panel noted that a removal order is a sanction of last resort where there is no other means of protecting the public or the wider public interest. The panel took the view that a removal order would be appropriate because Mr Shukla's fitness to practise remains impaired, but he is not able to and/or is not willing to remediate as can be seen by his lack of engagement with this review process, and his persistent failure to provide any evidence of further insight or remediation into his actions and the consequences they could have had. Also, he has indicated on several occasions that he does not wish to return to practise as a social worker, and he discussed with Social Work England applying for voluntary removal (albeit he has not completed the relevant application). There was no evidence before the

panel to indicate that Mr Shukla would oppose his removal from the register, to the contrary, there is suggestion that he seeks a removal in any event.

40. The panel concluded that a removal order is the appropriate and proportionate order.

Right of appeal:

41. 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.

42. 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.

43. 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.

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

The Professional Standards Authority

45. 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>