

Social worker: Susan Muldoon

Registration number: SW77589

Fitness to Practise

Final Order Review meeting

Date of meeting: 14 August 2024

Meeting venue: Remote meeting

Final order being reviewed: Conditions of practice order (expiring 25 September 2024)

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

Introduction and attendees:

1. This is the second review of a final conditions of practice order originally imposed for a period of 12 months by a panel of adjudicators on 28 April 2023. The final order was reviewed on 12 April 2024 where one condition was removed and the conditions of practice order was extended by a further four months.
2. Ms Muldoon did not attend and was not represented at the review.
3. Social Work England was represented by Capsticks LLP and their written submissions are set out within the notice of hearing letter.
4. The panel of adjudicators conducting this review (the “panel”) and the other people involved in it were as follows:

Adjudicators	Role
Rachel O’Connell	Chair
Marva Kelly	Social worker adjudicator

Hearings team/Legal adviser	Role
Robyn Watts	Hearings officer
Andrew Brown	Hearings support officer
Neville Sorab	Legal adviser

Service of notice:

5. The panel had careful regard to the documents contained in the service bundle as follows:
 - A copy of the Notice of Hearing dated 15 July 2024 addressed to Ms Muldoon at her email address as it appears on the Social Work England Register;
 - An extract from the Social Work England Register detailing Ms Muldoon’s registered email address;
 - A copy of a signed Statement of Service, on behalf of Social Work England, confirming that on 15 July 2024 – more than seven days before this review – the writer sent by email and special delivery to Ms Muldoon at her registered email address: Notice of Hearing and related documents; and
 - An email from Ms Muldoon’s legal representative to Capsticks LLP dated 13 August 2024 which sets out:

“I confirm therefore that neither the Registrant, nor a legal representative, propose being in attendance at the hearing and request that this be conducted by way of a meeting. Kindly note that no discourtesy is intended by the Registrant or their legal representative.”

6. 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 2019 (as amended) (the “FTP Rules 2019”).
7. Having had regard to Rules 16, 44 and 45 of the FTP Rules 2019 and all of the information before it in relation to the service of notice, the panel was satisfied that notice of this hearing had been served on Ms Muldoon in accordance with Rules 44 and 45 of the FTP Rules 2019.

Proceeding with the interim order review as a meeting:

8. The notice of final order review hearing informed the social worker that the review would take place electronically. The notice stated:

“If you would like to attend before the adjudicators in order to make oral submissions, please confirm your intention by no later than 4pm on 29 July 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 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 Ms Muldoon. This included reference to the cases of *R v Jones [2002] UKHL5*; *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 Fitness to Practise Rules 2019 (as amended) which provides:

“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.”

10. The panel was satisfied that it would be fair and appropriate to proceed in Ms Muldoon’s absence and conduct the review in the form of a meeting in accordance with Rule 16(d) on the basis that:

- a. Ms Muldoon was served with the Notice of Hearing in which it was set out that, in her absence, the final order review may take place as a meeting;
- b. Ms Muldoon has not requested to adjourn the review;
- c. Any adjournment would not guarantee the attendance of Ms Muldoon in the future;
- d. The review is a statutory review; and
- e. The continuation of the meeting was important in order to consider the protection of the public.

Review of the current order:

- 11. 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).
- 12. The current order is due to expire on 25 September 2024.

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

'Whilst registered as a Social Worker

- (1) *In respect of Child 1, on or around the 6 November 2018 you told Counsel not to seek an adjournment of the fact finding hearing scheduled for 12 November 2018, despite a management instruction to seek an adjournment of that hearing.*
- (2) *On or around March 2018 to November 2018 you failed to provide the required management oversight to ensure cases were being progressed as set out at schedule A;*

b) Child 2

- (ii) *Between 9 October 2018 and 8 November 2018, you did not ensure that a Parenting plan was started and/or completed*
- (iii) *Between August 2018 and November 2018, you did not record and/or carry out monthly supervision meetings*

c) Child 3

- (i) *Between April 2018 and November 2018, you did not record and/or carry out monthly supervision meetings*

- (ii) *Between April 2018 and November 2018, you did not and/or did not adequately supervise the allocated social worker.*

d) Child 4

- (ii) *Did not ensure that the Social Work Evidence Template was adequate causing an unnecessary delay.*

e) Child 5

- (i) *Between August 2018 and November 2018, you did not record monthly supervision meetings.*
 - (ii) *You did not adequately supervise the allocated social worker and those providing cover.*
- (3) *On or around the 2 July 2018 you made a supervision record in Child 6 records when supervision had not taken place*

The matters outlined [above] amount to the statutory duty of misconduct

Your fitness to practise is impaired by reason of your misconduct.'

The previous final order review panel on 12 April 2024 determined the following with regard to impairment:

- 24. *'The panel noted that the original panel found that Ms Muldoon's misconduct was easily remediable and that she had shown limited insight. In relation to the question of insight, the previous panel had imposed a condition which required her to prepare a reflective piece. The panel had reviewed the reflective piece which Ms Muldoon had prepared. The panel considered this to be an impressive document. It demonstrated an understanding of what had gone wrong, expressed remorse for previous failings and showed that Ms Muldoon clearly understood the implications of her previous misconduct. The panel concluded that Ms Muldoon had now demonstrated an appropriate level of insight.*
- 25. *However, the panel was conscious that Ms Muldoon had not worked as a registered social worker for a number of years and so had had no opportunity to demonstrate improved and safe practice in a working environment. In these circumstances the panel concluded that her current fitness to practise remained impaired.*
- 26. *The panel decided that the public interest will have been fully addressed by the existing order and Ms Muldoon's reflective piece. Her fitness to practise will no longer be impaired on public interest grounds on the*

expiry of the existing order. The only remaining element of impairment is personal and arises from her lack of recent experience in a “real life” working environment.’

The previous final order review panel on 12 April 2024 determined the following with regard to sanction:

30. *‘The panel decided it would not be appropriate to take no further action. It had made a finding of impairment on personal grounds, and this needed to be addressed by way of sanction.*
31. *The panel also concluded that a warning order would not be appropriate as this would permit unrestricted practice despite a finding of continuing impairment on personal, rather than public interest, grounds.*
32. *The panel next considered whether the current conditions of practice order should be extended for a further period of time, and with some variation in content.*
33. *The panel took the view that this was the appropriate and proportionate sanction in this case. A conditions of practice order would ensure that the public was properly protected if Ms Muldoon changed her present intentions and decided to return to social work practice.*
34. *In the panel’s assessment, a suspension order would be wholly disproportionate and serve no useful purpose.*
35. *The existing order provided appropriate and sufficient protection, but there was no longer a need for Condition 9 in view of the thorough reflective piece which Ms Muldoon had provided.*
36. *The panel decided that the duration of the order should be one of four months. This would allow sufficient time for the order to be effective if Ms Muldoon decided to change her mind about returning to practice. The varied conditions of practice order would come into effect upon the expiry of the present order.*
37. **[PRIVATE]**
38. *The Conditions of Practice to which Ms Muldoon’s registration will be subject upon the expiry of the present order are as follows:*
 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 or workplace supervisor referred to in these conditions.*
3. *At any time you are providing social work services, which require you to be registered with Social Work England:*
 - a. *You must agree to the appointment of a reporter nominated by your employer and approved by Social Work England. The reporter must be on Social Work England's register.*
 - b. *You must not start or continue to work until these arrangements have been approved by Social Work England.*
4. *You must provide reports from your reporter to Social Work England every 3 months and Social Work England will make these reports available to any workplace supervisor referred to in these conditions on request.*
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 7 days of the date of application for future registration or 7 days from the date these conditions take effect for existing registration.*
9. *At any time you are employed, or providing social work services, which require you to be registered with Social Work England;*
 - a. *You must place yourself and remain under the supervision of a workplace supervisor nominated by your employer and agreed by Social Work England. The workplace supervisor must be on Social Work England's register.*
 - b. *You must not start or continue to work until these arrangements have been approved by Social Work England.*

10. *You must provide reports from your workplace supervisor to Social Work England every 3 months and Social Work England will make these reports available to any reporter referred to in these conditions on request.*
11. *You must not supervise the work of any other social worker or student social worker.*
12. *You must not be responsible for the work of any other social worker or student social worker.*
13. *You must not work as an independent social worker and must only work as a social worker at premises where other social workers are employed.*
14. *You must provide a written copy of your conditions, within 7 days from the date these conditions take effect, to the following parties that your registration is subject to the conditions listed at (1) to (14):*
 - a. *Any organisation or person employing or contracting with you to undertake social work services whether paid or voluntary.*
 - b. *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).*
 - c. *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).*
 - d. *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.*
15. *You must forward written evidence of your compliance with these conditions to Social Work England within 14 days from the date these conditions take effect.*
16. *You must permit Social Work England to disclose the conditions, (1) to (15), to any person requesting information about your registration status.'*

Social Work England submissions:

13. In the Notice of Review, Capsticks LLP made the following written submissions on behalf of Social Work England:

‘Subject to any further engagement from the Social Worker prior to the review Social Work England invite the Panel to consider making a Removal Order. If the Social Worker responds to the notice of hearing and indicates that she does wish to remain registered, with reasons for her non-engagement, then Social Work England will invite the Panel to extend the Conditions of Practice Order by a further 12 months. It is submitted that a further short extension of the conditions is unlikely to be sufficient to facilitate a return to social work practice or to allow recovery from any health condition.

At the last review, the Social Worker’s impaired fitness to practise was deemed to be significantly closer to full remediation following the submission of a highly detailed reflective piece. What is outstanding is demonstration of safe and effective practice in a social work role. The Social Worker has not engaged with the conditions in the current order, as she has not worked in a social work role. Indeed, it appears she has not practised as a social worker since she resigned from her last role in March 2020. Accordingly, the Review Panel is invited to find that the Social Worker’s fitness to practise remains impaired.

The last communication by the Social Worker (or on her behalf) was from her solicitor on 11 April 2024, in which it was stated that she would not attend her review hearing and had no intention to return to social work practice. There was also a suggestion that a voluntary removal application would be made, however no voluntary removal application has been received.

Given that (1) this was an isolated period in the Social Worker’s otherwise unblemished career, (2) she has shown full insight, (3) her impairment has been deemed “easily remediable”, (4) there has been no application for voluntary removal and (5) the barriers to returning to practise are stated as being health-related (which, in the absence of more information from the Social Worker, must be considered possible to improve), it is submitted it may be disproportionate at this stage to make a Removal Order if there is any indication that the Social Worker is willing or able to remediate the conduct in the future. However, it is submitted that if there continues to be no engagement from the Social Worker to then there is no reason to continue the conditions of practice and further review the Order. In those circumstances Social Work England submit that a Removal Order is appropriate.’

Social worker submissions:

14. Neither Ms Muldoon, nor her legal representative, were present to make oral submissions. An email from Ms Muldoon's legal representative to Capsticks LLP dated 13 August 2024 set out that "*The Registrant confirms that there has been no new or material change in their circumstances since the last Review Hearing and does not intend to return to Social Work.*"

Panel decision and reasons on current impairment:

15. 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 final hearing panel and the previous final order review panel. However, it has exercised its own judgement in relation to the question of current impairment. The panel also took into account Social Work England's "*Impairment and sanctions guidance*".
16. The panel had regard to all of the documentation before it, including the decision and reasons of the final hearing panel and previous final review panel. The panel also took account of Social Work England's written submissions and the correspondence from Ms Muldoon's legal representative.
17. The panel heard and accepted the advice of the legal adviser, including the case of *Abrahaem v GMC [2008] EWHC 183* which sets out that, at a review, there was a persuasive burden on the registrant to demonstrate that previous concerns and impairments had been sufficiently addressed. 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 to maintain public confidence in the profession.
18. The panel first considered whether Ms Muldoon's fitness to practise remains impaired. The panel determined that Ms Muldoon was still impaired on the personal element for the following reasons:
 - a. The panel noted the assessment of insight of the previous final order review panel regarding the reflective piece submitted by Ms Muldoon on 14 November 2023. This panel considered that there was scope for further insight into the nature of the misconduct and why it occurred, as well as deeper personal insight.
 - b. The previous final order review panel considered that Ms Muldoon needed to work as a social worker in order to demonstrate that she is no longer impaired. Ms Muldoon was given this opportunity from the previous final order review panel through conditions of practice, with support from Social Work England. However, apart from providing a reflective piece, no other conditions have

been adhered to. Consequently, the panel does not have evidence that Ms Muldoon's practice is no longer impaired.

- c. Although the final hearing panel considered that the misconduct was remediable, Ms Muldoon has not provided this panel, or any previous panel, with any evidence that she has completed any remediation in the form of training or courses related to social work practice.

Given these reasons, the panel considered that Ms Muldoon's practice is still impaired and there is a likelihood of repetition should Ms Muldoon be permitted to practise unrestricted.

- 19. The panel also considered that public confidence in the social work profession would be undermined if a finding of impairment was not made under these circumstances.

Decision and reasons on sanction:

- 20. Having found Ms Muldoon's fitness to practise is currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel had regard to the submissions made along with all the information and accepted the advice of the legal adviser.
- 21. The panel considered the submissions made by Social Work England, during which they invited the panel to consider imposing a removal order. The panel also took into account the "*Impairment and sanctions guidance*" published by Social Work England.
- 22. The panel was mindful that the purpose of any sanction is not to punish Ms Muldoon, but to protect the public and the wider public interest. The public interest includes maintaining public confidence in the profession and Social Work England as its regulator and by upholding proper standards of conduct and behaviour. The panel applied the principle of proportionality by weighing Ms Muldoon's interests with the public interest.
- 23. The panel decided it would not be appropriate to take no further action or issue a warning. It had made a finding of impairment on personal grounds, and any sanction that does not restrict her practice is not appropriate and would not protect the public.
- 24. The panel next considered whether the current conditions of practice order should be extended for a further period of time, and with some variation in content. The panel considered that conditions of practice were no longer a proportionate sanction given:
 - a. Ms Muldoon was given the opportunity to remediate her practice and no longer be impaired through conditions of practice since the final hearing 16 months ago. However, apart from a semi-completed reflective piece, this opportunity was not taken up by Ms Muldoon.
 - b. Ms Muldoon has maintained a position since 12 April 2024 (and repeated on 13 August 2024) that she no longer wishes to practise as a social worker. This

position has been emphasised by Ms Muldoon's minimal engagement with the conditions of practice order. She has communicated this desire through her legal representation.

25. The panel considered that a suspension order would be inappropriate in the circumstances. It would not give Ms Muldoon the opportunity to remediate her practice so that it was no longer impaired. And although it does adhere to Ms Muldoon's wish to no longer practise as a social worker, it would be judicially inefficient given that Ms Muldoon would have to return to fitness to practise hearings on occasions to reconsider her suspension.
26. Due to Ms Muldoon's consistent position that she no longer wishes to practise as a social worker, her minimal engagement with conditions of practice, the panel considers removal to be the appropriate sanction in the circumstances.

Right of appeal:

27. 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.
28. 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.
29. 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.
30. This notice is served in accordance with Rules 44 and 45 of the Fitness to Practise Rules 2019 (as amended).

Review of final orders:

31. Under regulation 15(1), 15(2) and 15(3) of Schedule 2 of The Social Workers Regulations 2018 (as amended):

- 15(1) The regulator must review a suspension order, or a conditions of practice order, before its expiry.
- 15(2) The regulator may review a final order where new evidence relevant to the order has become available after the making of the order, or when requested to do so by the social worker.
- 15(3) A request by the social worker under sub-paragraph (2) must be made within such period as the regulator determines in rules made under Regulation 25(5).

32. Under Rule 16(aa) of the Fitness to Practise Rules 2019 (as amended), a social worker requesting a review of a final order under paragraph 15 of Schedule 2 must make the request within 28 days of the day on which they are notified of the order.

The Professional Standards Authority

33. 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>