

Social Worker:
Leonard Ren-Yi Yong
Registration Number: SW41380
Fitness to Practise:
Final Hearing

Date of hearing: Thursday 1 July 2021 – Friday 2 July 2021

Hearing Venue: Remote hearing

Hearing outcome: Removal order

Interim order: Interim suspension order (12 months)

Introduction and attendees

1. This is a hearing held under Part 5 of The Social Workers Regulations 2018.
2. Mr Yong did not attend and was not represented.
3. Social Work England was represented by Mr Christopher Hamlet, as instructed by Capsticks LLP.

Adjudicators	Role
Catherine Audcent	Chair
Sarah Redmond	Social Worker Adjudicator
Angela Duxbury	Lay Adjudicator

Jyoti Chand	Hearings Officer
Kathryn Tinsley	Hearing Support Officer
Natalie Amey-Smith	Legal Adviser

Service of Notice:

4. Mr Yong did not attend and was not represented. The panel of adjudicators (hereinafter “the panel”) was informed by Mr Hamlet that notice of this hearing was sent to Mr Yong by special next day delivery post to his addresses on the Social Work Register on 1 June 2021. Mr Hamlet submitted that the notice of this hearing had been duly served in accordance with rules 44 and 45 of the Social Work England Fitness to Practise Rules 2019 (updated April 2020) (hereinafter “the Rules”).
5. The panel accepted the advice of the legal adviser in relation to service of notice.
6. The panel had careful regard to the documents contained in the service bundle as follows:
 - a – A copy of the notice of hearing dated 1 June 2021 and addressed to Mr Yong at his residential address as it appears on the Social Work England Register.
 - b - An extract from the Social Work England Register detailing Mr Yong’s registered home address.
 - c - A copy of a Royal Mail Track and Trace document indicating “signed for by Leonarf” delivery to Mr Yong’s registered address at 10:44am Wednesday 2 June 2021.

d - A copy of a signed Statement of Service, on behalf of Social Work England, confirming that on 1 June 2021 the notice of final hearing and enclosures including a hearing bundle, was sent by special delivery to Mr Yong.

7. Having had regard to the rules and all 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 Yong in accordance with Rules 14, 15, 44 and 45.

Proceeding in the absence of the social worker:

8. The panel heard the submissions of Mr Hamlet on behalf of Social Work England. Mr Hamlet submitted that notice of this hearing had been duly served, no application for an adjournment had been made by Mr Yong and as such there was no guarantee that adjourning today's proceedings would secure his attendance. Mr Hamlet further submitted that Mr Yong had not engaged in the regulatory process from the start and that the case should not be allowed to be de-railed due to Mr Yong's failure to participate. Mr Hamlet therefore invited the panel to proceed in the interests of justice and the expeditious disposal of this hearing.
9. The panel accepted the advice of the legal adviser in relation to the factors it should take into account when considering this application. This included reference to rule 43 of the Rules and the cases of *R v Jones [2003] UKPC*; *General Medical Council v Adeogba [2016] EWCA Civ 162* and *Sanusi v GMC [2019] EWCA Civ 1172*.
10. The panel considered all the information before it, together with the submissions made by Mr Hamlet on behalf of Social Work England. The panel noted that Mr Yong had been sent notice of today's hearing and the panel was satisfied that he was or should be aware of today's hearing.
11. The panel, therefore, concluded that Mr Yong had chosen voluntarily to absent himself. The panel had no reason to believe that an adjournment would result in Mr Yong's attendance. The panel took into account that Mr Yong had failed to engage in the final hearing on 25 September 2019 – 1 October 2019 and had not engaged in the court appeal process which had followed. Having weighed the interests of Mr Yong in regard to his attendance at the hearing with those of Social Work England and the public interest in an expeditious disposal of this hearing, the panel determined to proceed in Mr Yong's absence.

Allegation(s)

12. While registered as a Social Worker with the Health and Care Professions Council, you;
 - 1) Between approximately September 2016 and June 2017, behaved inappropriately and/or in a harassing manner towards female Colleagues in that, you:
 - a) In relation to Worker 1, you:

i. Between approximately September 2016 and October 2016, asked if she was free to join you to the 'Shrek experience' and suggested she wore a school uniform, or words to that effect;

ii. On an unknown date in December 2016, asked whether she wanted to go to a Christmas party with you and to stay at your house afterwards, or words to that effect;

iii. On or around 26 December 2016, you sent her a "WhatsApp" media message saying "I think you are quite a unique individual and deserve a much better year. Let's catch up after work when you get back. Enjoy! X" or words to that effect;

b) In relation to Worker 3, between approximately April to June 2017, you:

i. Asked her, "how satisfied are you with your boyfriend, are you going to get married to him and what do you fight about" and then commented "I see a touchy subject" or words to that effect;

ii. Asked her whether she had previous relationships with men that were older than her and what she liked about these relationships, or words to that effect;

iii. Told her personal details about your extra-marital affairs and talked about a relationship you were having with a woman;

iv. Asked her where she lived and told her that if she lived in the area where you were housesitting for the weekend she could have visited you, or words to that effect;

v. Asked her when her boyfriend would be away and told her to keep the weekend free so you could do something together, or words to that effect;

c) In relation to Worker 4, you:

i. On or around 09 June 2017, called her into your office to talk about two young females you said were experiencing domestic violence and were helping outside of work, or words to that effect;

d) In relation to Worker 5, you:

i. Asked her "How did you meet your boyfriend, I bet you were at it like rabbits", or words to that effect;

ii. On or around 13 April 2017, said " the only thing that needs resurrecting around here is my libido", or words to that effect;

iii. On or around 15 June 2017, asked if she wanted to spend time with you on Saturday afternoon and/or evening, and said, “don’t answer now, think about it and let me know” or words to that effect;

e) In relation to Worker 6, you;

i. On an unknown date between December 2016 and January 2017, asked about her relationship with her husband and said "you need to keep your husband happy, even if you are tired, you know, masturbate him" or words to that effect;

ii. On or around March 2017, told her to film herself and her husband having sex;

iii. Talked about a friend of yours to her, who is currently in a domestic violence relationship and told her that you invited her into your bed for cuddles.

f) In relation to Worker 7, you:

i. Said to her “I know I shouldn’t do this, but you could move into my flat where there is a spare room” or words to that effect;

ii. On or around 23 December 2016, you clenched your arms around her and pressed your body including your chest and/or groin against her.

2) Your conduct in paragraphs 1 a) – f) was sexually motivated.

3) The matters set out in paragraphs 1 – 2 constitute misconduct.

4) By reason of your misconduct your fitness to practise is impaired.

Background

13. Mr Yong was employed by the London Borough of Lambeth [“LBL”] as an agency Social Worker Practitioner Manager in the Hospital Social Work Team [“HSWT”] based at Guy’s and St Thomas’ Hospital.

14. On 16 June 2017 concerns were raised with CM, Team Manager of the HSWT, by six female social workers within Mr Yong’s team. The concerns related to inappropriate and unprofessional behaviour by the Registrant towards female colleagues.

15. The six workers were interviewed by HF, the Service Manager at LBL, and each was invited to produce a written statement outlining their concerns.

16. In addition, Worker 7 separately raised her concerns about the Registrant with CM.

17. A referral was subsequently made to the Health and Care Professions Council.
18. Mr Yong was made subject to an interim suspension order by a panel of the Health and Care Professions Tribunal Service (HCPTS) on 28 September 2017.
19. A final hearing was held by the HCPTS from 25 September 2019 through to 1 October 2019.
20. The Professional Standards Authority for Health and Social Care (PSA) appealed the final hearing decision under section 29(4) of the National Health Service Reform and Health Care Professions Act 2002 (“the Act”) which provides:

“Where a relevant decision is made, the Authority may refer the case to the relevant court if it considers that the decision is not sufficient (whether as to a finding or a penalty or both) for the protection of the public.”
21. The appeal case was heard before Mr Justice Griffiths on 8 December 2020 with written judgement delivered on 15 January 2021. Mr Yong did not engage with the proceedings and did not attend that hearing.
22. The HCPTS decision had upheld allegations of misconduct by Mr Yong against several colleagues, referred to as Worker 1 and Workers 3-7. There was no appeal against these findings against Mr Yong. However, the decision made a number of findings favourable to Mr Yong and the PSA appeal challenged some only of those favourable findings, namely:
 - i) Findings that, although the conduct proven against Mr Yong meant that he had “behaved inappropriately...towards female Colleagues”, it did not in any case mean that he had behaved “in a harassing manner” towards them.
 - ii) Findings, in respect of the same conduct, that none of it was “sexually motivated”.
23. Mr Justice Griffiths found that, in respect of some of the allegations, that Mr Yong had behaved in a harassing manner and that his conduct was sexually motivated. The court adopted the HCPTS panel findings in respect of the facts, misconduct and impairment. The court remitted the question of sanction to the regulator which is now Social Work England.
24. In allowing the appeal the court ordered as follows:
 - ‘2. The Decision is quashed to the extent that it found that the Second Respondent did not behave in a harassing manner in the respects particularised in allegations 1(a)(i)-(iii), 1(b)(i),(ii), (iv) and (v), 1(e)(i)-(iii) and 1(f)(i)-(ii).
 3. Those findings are substituted by findings that the Second Respondent did behave in a harassing manner in the respects particularised in allegations 1(a)(i)-(iii), 1(b)(i),(ii), (iv) and (v), 1(e)(i)-(iii) and 1(f)(i)-(ii).

4. The Decision is quashed to the extent that it found that the Second Respondent's actions in the respects particularised in allegations 1(a)(i)-(iii) and 1(f)(i)-(ii) were not sexually motivated.
5. Those findings are substituted by findings that the Second Respondent's actions in the respects particularised in allegations 1(a)(i)-(iii) and 1(f)(i)-(ii) were sexually motivated.
6. The Decision's determination of sanction is quashed.
7. The Decision, as modified by paragraphs 2-6 above, is remitted to Social Work England for redetermination of sanction pursuant to s 29(8)(d) of the National Health Service Reform and Health Care Professions Act 2002.'
25. This decision on sanction should be read in conjunction with the decision of the HCPTS dated 25 September – 1 October 2019 and the judgement *PROFESSIONAL STANDARDS AUTHORITY v HEALTH AND CARE PROFESSIONS COUNCIL and LEONARD REN-YI YONG* [2021] EWHC 52 (Admin).
26. The decision on sanction is based on the amended findings as found by Mr Justice Griffiths and they are detailed below.

Findings

27. In summary, following the decision of Mr Justice Griffiths, the following facts have been found proved. The facts that were not found proved in full have been annotated in brackets, setting out the extent to which they have been found proved.
- "1) Between approximately September 2016 and June 2017, behaved inappropriately and/or in a harassing manner towards female Colleagues in that, you:
- a. In relation to Worker 1, you:
 - i. Between approximately September 2016 and October 2016, asked if she was free to join you to the 'Shrek experience' and suggested she wore a school uniform, or words to that effect;
 - ii. On an unknown date in December 2016, asked whether she wanted to go to a Christmas party with you and to stay at your house afterwards, or words to that effect;
 - iii. On or around 26 December 2016, you sent her a "WhatsApp" media message saying "I think you are quite a unique individual and deserve a much better year. Let's catch up after work when you get back. Enjoy! X" or words to that effect;
 - b. in relation to Worker 3, between approximately April to June 2017, you:

- i. Asked her, “how satisfied are you with your boyfriend, are you going to get married to him and what do you fight about” and then commented “I see a touchy subject” or words to that effect;
 - ii. Asked her whether she had previous relationships with men that were older than her and what she liked about these relationships, or words to that effect;
 - iv. Asked her where she lived and told her that if she lived in the area where you were housesitting for the weekend she could have visited you, or words to that effect;
 - v. Asked her when her boyfriend would be away and told her to keep the weekend free so you could do something together, or words to that effect;
- c. In relation to Worker 4, you:
 - i. On or around 09 June 2016, called her into your office to talk about two young females you said were experiencing domestic violence and were helping outside of work, or words to that effect;
(Social Worker’s actions not found to be harassing in manner)
- d. In relation to Worker 5, you:
 - i. Asked her “How did you meet your boyfriend, I bet you were at it like rabbits”, or words to that effect; ***(Social Worker’s actions not found to be harassing in manner)***
 - ii. On or around 13 April 2017, said “ the only thing that needs resurrecting around here is my libido”, or words to that effect; ***(Social Worker’s actions not found to be harassing in manner)***
 - iii. On or around 15 June 2017, asked if she wanted to spend time with you on Saturday afternoon and/or evening, and said, “don’t answer now, think about it and let me know” or words to that effect;
(Social Worker’s actions not found to be harassing in manner)
- e. In relation to Worker 6, you;
 - i. On an unknown date between December 2016 and January 2017, asked about her relationship with her husband and said "you need to keep your husband happy, even if you are tired, you know, masturbate him" or words to that effect;

ii. On or around March 2017, told her to film herself and her husband having sex;

iii. Talked about a friend of yours to her, who is currently in a domestic violence relationship and told her that you invited her into your bed for cuddles.

f. In relation to Worker 7, you:

i. Said to her “I know I shouldn’t do this, but you could move into my flat where there is a spare room” or words to that effect;

ii. On or around 23 December 2016, you clenched your arms around her and pressed your body including your chest and/or groin against her.

2) Your conduct in paragraphs 1 (a) (i)-(iii) and 1 (f)(i)-(ii) was sexually motivated.

3) The matters set out in paragraphs 1 - 2 constitute misconduct.”

Decision on sanction

28. In advance of the hearing the panel had received a skeleton argument prepared by Mr Hamlet on behalf of Social Work England. The Panel heard submissions from Mr Hamlet as to the background of the case and the findings made by the court on appeal by the PSA.

29. Mr Hamlet reminded the panel that the previous sanction decision determined by the HCPTS panel was made without having found on the facts that Mr Yong acted in a sexually motivated or even harassing way with any of the women. He said it followed that the sanction on that occasion was not reached on the basis of the significant aggravating features that this panel must now take into account.

30. Mr Hamlet drew the panel’s attention to the appeal judgement wherein Mr Justice Griffiths said, ‘Even on the basis found by the Panel, therefore, I would have found considerable force in the submission that the Panel’s sanction could not stand. Even if meaningful practice restrictions cannot be imposed, it is not at all clear why a suspension of practice order would be disproportionate in this case. However, given that I have added findings that Mr Yong acted in a harassing manner and (in the case of Workers 1 and 7) had a sexual motivation, the basis upon which the Panel determined its sanction has on any view ceased to be appropriate and must be reconsidered. The importance of these additional aggravating factors is obvious. The Decision itself noted that its decision on sanction was expressly based, in part, on the finding that Mr Yong’s behaviour “was not harassing or sexually motivated” (Decision para 107).’

31. Mr Hamlet submitted that whilst the panel is required to be proportionate and weigh up the interests of the public with those of Mr Yong, in this case the public interests far outweigh those of Mr Yong.
32. Mr Hamlet reminded the panel of its duty to start with the lowest sanction and escalate up. He submitted that this was a case which sits at the top end of seriousness and has numerous aggravating features and very little in the way of mitigation.
33. Mr Hamlet submitted that the appropriate sanction in this case was one of removal from the register and that anything less would fail to protect the public and would damage the public's confidence in the profession and the regulator. He submitted that Mr Yong's misconduct in tandem with his lack of engagement is fundamentally incompatible with registration.
34. The panel heard and accepted the advice of the legal adviser on all the sanction options available in accordance with the Social Worker Regulations 2018. The panel accepted and took into account that whilst sanctions are at its discretion, it is expected to refer to the Sanctions Guidance (dated 26 November 2019) published by Social Work England.
35. The panel were reminded by the legal adviser that the purpose of any fitness to practise sanction is to protect the public which includes the maintenance of confidence in the profession and professional standards and, that the sanction imposed should be the minimum necessary to protect the public. The panel were advised that it is useful to test the appropriateness and proportionality of each sanction by considering the next sanction up against each of the limbs of Social Work England's overarching objective.
36. The legal adviser referred the panel to the cases of *Bolton v The Law Society* [1994] WLR 512, *Professional standards Authority for Health and Social Care and GMC and Hanson* [2021] EWHC 558.
37. The panel firstly considered the aggravating and mitigating factors in determining what sanction, if any, to impose and in doing so, it had in mind the matters which had been found at the impairment and misconduct stage. The panel identified the following aggravating factors:
- Mr Yong's conduct was not an isolated incident but took place over a period of nine months and involved 7 female colleagues.
 - Mr Yong's conduct towards two female colleagues was sexually motivated and in relation to one of those females had included a physical aspect.

- In respect of the physical sexually motivated conduct, the female colleague said it had been unexpected and unwelcomed and had caused her “extreme discomfort”.
- Mr Yong’s conduct towards four female colleagues was carried out in a harassing manner and the appeal court found that it met the legal definition of harassment in accordance with s26 of the Equality Act 2020.
- In respect of the harassment, the court found that Mr Yong’s behaviour had created “an intimidating, hostile, degrading, humiliating or offensive environment”.
- Mr Yong was in a management position and therefore in a position of power and authority over these more junior female colleagues and the misconduct occurred both in and outside of the workplace.
- Mr Yong has failed to engage with the fitness to practice proceedings and did not engage with the appeal court proceedings.
- There is no further evidence of any insight, remediation, or reflection than that determined by the original panel.

38. The panel identified the following mitigating factors:

- Mr Yong has no other disciplinary findings against him, although this must be taken in the context of the panel not knowing whether he has continued to work as a social worker.

39. The panel noted that there was an absence of any evidence that Mr Yong had engaged in similar conduct before or since the date the misconduct arose. The panel found that, as Mr Yong had chosen not to engage in proceedings, it could not consider the absence of any evidence as mitigation, but rather as a neutral point.

40. The panel considered all the features of this case, including the harassing manner in which Mr Yong had behaved and the sexually motivated conduct he had used towards colleagues, and found this to be profoundly serious misconduct. The panel took into account that the overarching objective of Social Work England is to protect the public and that includes co-workers.

41. The panel took into account Mr Yong’s lack of engagement in the regulatory process and identified that there was no evidence of remediation, reflection, or any actions to address the findings. In relation to insight the panel noted that the only evidence pertaining to this is that Mr Yong had apologised for his behaviour when spoken to by HF and CM in June 2017. The panel therefore found Mr Yong’s insight to be

limited. The panel found there to be a clear ongoing risk of repetition and that other co-workers could be subjected to similar mistreatment.

42. Given the serious findings of impairment the panel determined that taking no action, giving advice, or giving a warning would not be appropriate or sufficient as they do not protect the public from the risks identified.
43. The panel went on to consider a conditions of practice order. The panel noted that conditions are most likely to be appropriate where the concerns relate to practice failings or a lack of competence which may be best addressed by a period of retraining and/or supervision and not to attitudinal or behavioural failings as in Mr Yong's case. With reference to the Sanctions Guidance the panel noted that, 'conditions would almost certainly be insufficient in cases of sexual misconduct, abuses of trust and discrimination involving a protected characteristic.'
44. Based on the findings particularly those of harassment and sexual motivation together with Mr Yong's failure to engage the panel determined that conditions of practice would not meet the protection of the public objective nor mitigate the risks.
45. The panel went on to consider whether a suspension order should be imposed to protect the public and the wider public interest balanced against the interests of Mr Yong. The panel recognised that the order could be a mark to the public and the profession of the seriousness of Mr Yong's misconduct and would allow him an opportunity to engage with Social Work England and consider ways in which his misconduct might be remediated. The panel balanced this against the serious nature of the circumstances of this case, the longstanding investigations into the case which first arose in 2016 and Mr Yong's complete failure to engage in the fitness to practise process.
46. The panel determined that a suspension order is not an appropriate sanction in this case. The panel found no mitigation which would provide a basis for concluding that repetition is unlikely.
47. In considering the overarching limbs of Social Work England and the wider public interest the panel also determined that suspension would not be sufficient to satisfy public confidence in either the profession or the regulatory process. The panel took into account the sanctions guidance which states, 'Abuse of professional position to pursue a sexual or improper emotional or social relationship with a service user or a member of their family or a work colleague is a serious abuse of trust'. The panel found that to be applicable in Mr Yong's case.
48. The panel therefore concluded that a removal order is the appropriate sanction. The panel took into account that a removal order is a draconian order but, in its view, it was necessary in this case. The panel had been provided with no evidence to show

any insight or remediation of Mr Yong's misconduct so as to avoid repetition and eliminate risk. Given the serious nature of the misconduct findings that have been proven against Mr Yong the public interest would only be served by his removal from the register.

49. The panel took into account the principle of proportionality and the need to balance the interests of the social worker against those of the public. The panel had no evidence of Mr Yong's current personal circumstances. The panel took into account the words of Sir Thomas Bingham in *Bolton v The Law Society* [1994] WLR 512 who said, "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 a part of the price".
50. The panel concluded that no other outcome would be enough to protect the public, maintain confidence in the profession or maintain proper professional standards for social workers in England.

Interim order

51. In light of its findings on Sanction, the panel next considered an application by Mr Hamlet for an interim suspension order to cover the appeal period before the sanction becomes operative. He made submissions that these are serious findings including sexually motivated behaviour by Mr Yong, a lack of insight and a risk of repetition. He submitted that allowing, even in theory, Mr Yong to return to unrestricted practice is wholly unsuitable.
52. The panel heard and accepted the advice of the legal adviser in respect of its statutory powers to make an interim order.
53. The panel next considered whether to impose an interim order. It was mindful that Mr Yong has findings of misconduct against him and a determination that his fitness to practise is currently impaired. It therefore determined that it would be wholly incompatible with those findings and the imposition of a removal order to conclude that an interim suspension order was not necessary for the protection of the public or otherwise in the public interest for the appeal period.
54. Accordingly, the panel concluded that an interim suspension order should be imposed on public protection, which includes public interest grounds. It determined that it is appropriate that the interim suspension order be imposed for a period of twelve months to cover the appeal period and to allow time for any appeal to be heard which may take longer due to the current Pandemic. When the appeal period expires, this interim order will come to an end unless there has been an application to appeal. If there is no appeal the removal order shall apply when the appeal period expires.

Right of Appeal

1. Under paragraph 16 (1) (a) of schedule 2, part 5 of the Social Workers Regulations 2018, the Social worker may appeal to the High Court against 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.
2. Under paragraph 16 (2) schedule 2, part 5 of the Social Workers Regulations 2018 an appeal must be made within 28 days of the day on which the social worker is notified of the decision complained of.
3. Under regulation 9(4), part 3 (Registration of social workers) of the Social Workers Regulations 2018, this order can only be recorded on the register 28 days after the Social Worker was informed of the decision or, if the social worker appeals within 28 days, when that appeal is exhausted.
4. This notice is served in accordance with rules 44 and 45 of the Social Work England Fitness to Practice Rules 2019.

Review of final orders

5. Under paragraph 15 (2) and 15 (3) of schedule 2, part 4 of the Social Workers Regulations 2018:
 - 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), and a final order does not have effect until after the expiry of that period.
6. Under rule 16 (aa) of Social Work England's fitness to practise rules, a registered 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.