

Social worker: Deborah Johnson
Registration number: SW93641
Fitness to practise:
Final hearing

Date(s) of hearing: Monday 23 November 2020 – Monday 30 November 2020
Wednesday 27 January 2021 – Thursday 28 January 2021

Hearing Venue: Social Work England, 1 North Bank, Blonk Street, Sheffield,
S3 8JY

Hearing outcome: Removal order

Interim order: Interim suspension order (18 Months)

Introduction and attendees

1. This is a hearing of the Fitness to Practise Committee held under Part 5 of The Social Workers Regulations 2018.
2. Ms Johnson (“the social worker”) did not attend and was not represented.
3. Social Work England was represented by Ms Charlotte Watts of Capsticks LLP.

Adjudicators	Role
Name: Manuela Grayson	Chair
Name: Christine Moody	Social Worker
Name: Colette Neville	Lay Adjudicator

Name: Jenna Keats	Hearings Officer
Name: Heather Hibbins	Hearing Support Officer
Name: Sadia Zouq	Legal Adviser

Notice of Service:

4. The social worker did not attend and was not represented. The panel of adjudicators (“the panel”) was informed by Ms Watts that notice of this hearing was sent to the social worker by email and by recorded delivery to her address on Social Work England’s Register (the Register). She submitted that the notice of hearing had been duly served.
5. The panel accepted the advice of the legal adviser in relation to service of notice.
6. The panel considered the service bundle and the contents of the notice of hearing dated 22 October 2020 sent via email and recorded delivery. The panel had regard to the extract from the Register, the Statement of Service of Jonathan Topham of Capsticks LLP, and the Royal Mail track and trace print out. The panel noted that the

social worker had responded to the documentation on 26 October 2020 in writing. Having had regard to the legal advice 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 the social worker in accordance with Rules 14(a), 44 and 45 of Social Work England's Fitness to Practice Rules 2019 ("the Rules").

Proceeding in the absence of the social worker:

7. The panel heard the submissions of Ms Watts on behalf of Social Work England. She submitted that notice of this hearing had been duly served, no application for an adjournment had been made by the social worker and as such there was no guarantee that adjourning today's proceedings would secure her attendance. She reminded the panel that care and caution must be taken when exercising its discretion to proceed in a social worker's absence and referred to factors from case law relevant to proceeding in absence in the social worker's case.
8. Ms Watts submitted that the social worker had voluntarily absented herself despite having engaged with her previous regulator, the Health and Care Professions Council ("HCPC"), and Social Work England. She detailed how Social Work England had taken a "robust approach" to engage the social worker by reminding the social worker that she could attend the hearing at any stage and that she could apply for an adjournment. The social worker responded that she would not be attending the hearing due to personal responsibilities, and would like for the hearing to go ahead in her absence. Accordingly Ms Watts submitted that an adjournment would not secure the social worker's attendance and any delay was undesirable due to the age and history of this case. Ms Watts 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 and the cases of *R v Jones* [2002] UKHL 5 and the *General Medical Council v Adeogba* [2016] EWCA Civ 162. She referred the panel to the factors noted in the "Guidance on service of notices and proceeding in the absence of the social worker" (5 December 2019) from Social Work England's website.

10. The panel considered all of the information before it, together with the submissions made by Ms Watts on behalf of Social Work England. The panel had already concluded that service had been properly effected, and that the notice of hearing informed the social worker that the panel may proceed in her absence.
11. The panel noted that the social worker had provided a number of responses to the allegation with the most recent response dated 26 October 2020. In this response the social worker stated that she was unable to attend this hearing due to caring responsibilities and that “I do wish for the hearing to go ahead in my absence”.
12. In a telephone conversation with Social Work England on 3 November 2020, the social worker repeated that she was unable to attend this hearing for the same reasons. The social worker was informed that arrangements could be made for her attendance on some days of this hearing to allow her the opportunity to ask questions of witnesses, give evidence and make submissions to the panel. The social worker declined stating that she had provided everything in her written statement. The panel determined that the social worker had therefore voluntarily absented herself from the hearing. The panel consider whether adjourning this hearing would secure the social worker’s attendance at a future date, and concluded that it would not. An adjournment was also not desirable due to the age of the Allegation and history of these proceedings. The panel also had regard to there being two witnesses on standby to give evidence.
13. Having weighed the interests of the social worker in regard to her attendance at the hearing with those of Social Work England and the public interest in an expeditious disposal of this hearing, the panel exercised its discretion to proceed in the social worker’s absence.

Preliminary matters

Applications to Amend the Allegation

14. Ms Watts, on behalf of Social Work England, made an application to amend the Allegation. The social worker had been notified of the application on 21 October 2020. No objection had been raised by the social worker. In summary Ms Watts applied to

amend the wording of particulars 1(b)(vii), (ix) and 3(b), and to delete particulars 2(b) and 3(e).

15. Ms Watts submitted that the proposed amendments and deletions did not cause injustice or prejudice to the social worker and provided clarification as to how the need for these amendments had arisen. She submitted that the proposed deletions favoured the social worker and did not heighten the seriousness of the Allegation nor represent a material change.

16. A further application to amend was made after Ms Watts had opened her case. Ms Watts applied to delete the word “falsely” from particular 2(a) and from the stem of particular 3. She submitted that particular 4 alleged dishonesty in relation to particulars 2 and 3, and therefore the word “falsely” in these particulars was superfluous.

Panel’s Approach

17. The panel received and accepted the advice of the Legal Adviser. It carefully considered Ms Watts’ applications to amend the particulars, including whether the social worker had had sufficient notice of the applications and whether they had caused her any prejudice.

Panel Decision regarding Applications to Amend

18. The panel was satisfied that the social worker had had sufficient notice of the first application to amend the Allegation. The panel noted that the social worker had not responded directly to that application to amend, but that she had provided a response to the Allegation in her submissions of 26 October 2020. The panel was satisfied that the amendments and deletions were necessary and desirable as they provided greater clarity, did not substantively change the nature of the allegation and did not cause the social worker any prejudice.

19. In relation to the second application to amend the Allegation, the panel concluded that although the social worker had not been provided with notice of the application, deletion of the words “falsely” in particulars 2(a) and 3, did not change

the nature or severity of the Allegation and did not cause the social worker any prejudice.

Allegation (as amended throughout)

Whilst registered as a Social Worker:

1. You provided misleading information in job applications submitted to the East Riding of Yorkshire Council ("East Riding") as follows:

a. After being suspended by Hull City Council ("Hull") on 28 April 2015 following the initiation of disciplinary proceedings against you:

i. in an application for Social Worker (made on or before 05 May 2015) in response to a request for details of "any/all disciplinary action taken against you by any employer [other than] action taken as the result of an allegation that was proven false, unsubstantiated, unfounded or malicious" (a "Disciplinary Action Disclosure Request") you answered "None"; and

ii. in an application for Social Workers and Care Coordinators - Adults (made on or before 31 August 2015), you responded to a Disciplinary Action Disclosure Request with "None";

iii. in an application for Youth and Family Support Practitioner Level 2 (made on or before 22 October 2015), you responded to a Disciplinary Action Disclosure Request with "None".

b. Having been dismissed by Hull on 17 November 2015 following a disciplinary hearing at which you were found to have submitted six false mileage claims:

i. in an application for Youth and Family Support Practitioner Level 3 (made on or before 7 December 2015), you responded to a Disciplinary Action Disclosure Request by saying that you had been subject to a disciplinary hearing due to "an error on a mileage claim", and gave your reason for leaving Hull as "Short term contract. Needed more permanent post";

ii. in an application for Youth and Family Support Practitioner Level 1 (made on or before 9 December 2015), you responded to a Disciplinary Action Disclosure Request with "N/A", and gave your reason for leaving Hull as "Short term contract";

iii. in an application for Social Worker (made on or before 11 December 2015), you responded to a Disciplinary Action Disclosure Request by saying "I was unfairly dismissed by my previous employer...for making an error on my mileage claim that

was not checked as required, by my Manager at the time...”, and gave your reason for leaving Hull as “Short term contract”;

iv. in an application for Qualified Social Worker (made on or before 11 January 2016), you responded to a Disciplinary Action Disclosure Request by saying that you had been dismissed by Hull following an error in your mileage claim, and gave your reason for leaving Hull as “To have a change...”

v. in an application for Community Assessment Officer (made on or before 13 March 2016), you responded to a Disciplinary Action Disclosure Request by saying that you had been unfairly dismissed by Hull following an error in your mileage claim, and gave your reason for leaving Hull as “To have a change...”

vi. in an application for Youth and Family Support Practitioner Level 2 (made on or before 20 March 2016), you responded to a Disciplinary Action Disclosure Request by saying that you had been unfairly dismissed by Hull following an error in your mileage claim, and gave your reason for leaving Hull as “To have a change...”;

vii. in an application for Care Co-ordinator (made on or before 10 April 2016), you responded to a Disciplinary Action Disclosure Request by stating that you had been “unfairly dismissed... for making an error on my mileage claim” and gave your reason for leaving Hull as “Unfairly dismissed”.

viii. in an application for Leaving Care Personal Adviser (made on or before 17 April 2016), you responded to a Disciplinary Action Disclosure Request by saying that you had been unfairly dismissed by Hull following an error in your mileage claim, and gave your reason for leaving Hull as “To have a change...”;

ix. in an application for Family Co-ordinator (made on or before 24 April 2016), you responded to a Disciplinary Action Disclosure Request with “N/A”, and omitted your employment at Hull City Council from the employment history section.

2. With regard to a hearing in January 2017 before a panel of the HCPC’s Conduct and Competence Committee in relation to a fitness to practise allegation against you in case number FTP42777 (“the FTP proceedings”):

a. you informed your manager at East Riding of Yorkshire Council (“East Riding”) that you were attending to support a friend who had been charged with making dishonest mileage claims.

3. *During a disciplinary interview with East Riding on 15 August 2017 regarding the matters referred to at 1 above, you stated that:*

- a. you had not declared the outcome of the Hull disciplinary proceedings in some of the job applications submitted to East Riding because you had been told not to do so by Hull;*
- b. that all of the job applications submitted to East Riding had included your employment at Hull, or words to that effect;*
- c. the Hull disciplinary proceedings related to three or four mileage claims;*
- d. the FTP proceedings had not yet concluded and that the HCPC had suspended the case for six months after a hearing in April 2017;*
- e.*
- f. you had been open and honest during the interview.*

4. *Your actions described in paragraphs 1 to 3 were dishonest.*

5. *The matters described in paragraphs 1 to 4 amount to misconduct.*

6. *By reason of that misconduct, your fitness to practise is impaired.*

Background

20. On 15th September 2017, the HCPC received a referral regarding the social worker. The referral was made by Derek Barker of East Riding of Yorkshire Council (“the Council”).

21. The social worker was employed at the Council from 13 June 2016 to 15 August 2017, firstly as a Family Coordinator within the Children's Services team and then as a Care Coordinator within the Council's Adult Safeguarding team. Both positions were non-qualified roles. The social worker was line managed (whilst working as a Care Coordinator) by Kim Brown, the Adult Safeguarding Team Manager.

22. Prior to joining the Council, the social worker was employed as a social worker at Hull City Council and was dismissed on 17 November 2015 for gross misconduct. It is

alleged that the social worker gave misleading information regarding her dismissal from Hull City Council to the Council on various job applications, including her successful job application for the Family Coordinator and Care Coordinator roles.

23. On 12 January 2017 the social worker attended the first day of a four day hearing of the HCPC's Conduct and Competence Committee Fitness to Practise hearing in relation to matters arising from her dismissal by Hull City Council. The social worker allegedly told Kim Brown that she was attending HCPC proceedings to support a friend who had been charged with making dishonest mileage claims.

24. The social worker's subsequent suspension by the HCPC came to the Council's attention in April 2017 or May 2017 following the publication of a newspaper article in the Hull Daily Mail. Derek Barker, the Council's Area Manager was appointed as the Investigating Officer to look into the matter. On 15 August 2017, the social worker was interviewed as part of the investigatory process. Shortly after the interview, and on the same date, the social worker resigned from the Council before the investigation was completed.

25. An allegation was originally heard before a panel of the Conduct and Competence Committee of the Health and Care Professions Council. The sanction imposed by that panel in November 2018 was quashed by the Administrative Court in May 2019. The Professional Standards Authority for Health and Social Care ("PSA") and the HCPC agreed draft allegations to be remitted back for consideration by a panel of the HCPC's Conduct and Competence Committee. The panel was not provided with the determination from the HCPC hearing of November 2018. The panel has disregarded the procedural history of this case when determining the matters before it.

26. On 2 December 2019 the regulation of social workers and all accompanying fitness to practise matters were transferred to Social Work England.

Summary of Evidence

27. The panel was provided with the following documentation from Social Work England and the social worker:

- Social Work England’s statement of case, including proposed amendments to the Allegation.
- Witness statement bundle: this contained witness statements from Ms Kim Brown (Team Manager of the Safeguarding Adults team at the Council) and Mr Derek Barker (Area Manager at the Council).
- Exhibit bundle: this contained 516 pages of documentation in relation to the investigation by the Council and the social worker’s responses to the allegation, including four character references submitted on her behalf.
- A Service and Supplementary bundle: in addition to service documentation, this bundle contained the social worker’s 8 page statement dated 26 October 2020 and a 6 page document from the social worker titled “Return to Social Work: panel feedback form for critical reflective log and personal development”.

28. Ms Watts opened the case on behalf of Social Work England. She referred the panel to her Statement of Case, and cross referenced her opening with the relevant exhibits in the bundle. Ms Watts stated that she did not intend to call the witnesses Mr Barker and Ms Brown to give live evidence and asked for their witness statements to be admitted in evidence. Ms Watts referred the panel to the social worker’s submissions of 26 October 2020 in which she had stated *“I do not wish for any witnesses to be called. However, if SWE wishes to call witnesses, this is a matter for SWE”*. Ms Watts informed the panel that if they had questions for the witnesses, that they were on standby and available to give evidence.

29. The panel retired to consider whether they required the witnesses to attend. The panel noted that Mr Barker provided evidence gathered during the course of his investigation regarding the allegedly misleading information in the job application

forms completed by the social worker and interviewed the social worker as part of the investigation. The panel had questions for Mr Barker, specifically in relation to particulars 3 and 4.

30. Ms Brown provided evidence in relation to the social worker's alleged misrepresentations and dishonesty in respect of why she needed to attend a HCPC hearing in January 2017. The panel considered Ms Brown's witness statement and investigatory interview and concluded that they did not have any questions of Ms Brown. Her attendance at the hearing was therefore not required and her witness statement was admitted in evidence.

Third Application to Amend the Allegation

31. During its deliberation on the facts, the panel requested that Social Work England provide clarification of the wording in particular 3.
32. Ms Watts submitted that the stem of particular 3 should have concluded with "you stated words to the effect of", or that, in the alternative, the statements in sub-particulars (a) to (f) reflect direct quotations taken from the disciplinary interview with the social worker.
33. Ms Watts suggested the following 3 options: that she applied to amend particular 3, that the panel amended particular 3 using its inherent powers to amend allegations prior to concluding its findings of fact, or that the panel continued with its deliberations and made their findings of fact on particular 3 as it was drafted.
34. Ms Watts submitted that she did not have instructions to make an application to amend particular 3, and suggested that the panel considered amending the Allegation. She reminded the panel of the principles of fairness and submitted that adding "or words to the effect of", to the stem of particular 3 would remedy what she described as an obvious oversight. Ms Watts submitted that Social Work England was keen for this case not to be under-prosecuted and invited the panel to exercise its discretion to amend particular 3.

35. The Legal Adviser reminded the panel of the advice provided in relation to the previous two applications to amend the Allegation. She stated that it is ultimately the responsibility of the regulator to make the correct charging decisions based on the evidence it had gathered; however, the panel had an inherent power to amend the Allegation before its findings of fact.
36. The Legal Adviser stated that an allegation should reflect the gravity of the social worker's alleged conduct. She referred to the case of *PSA v HCPC and Doree* [2017] EWCA Civ 319 at paragraph 54: *A professional disciplinary committee is entitled to make amendments to the allegations before it, so as to avoid "undercharging"*. She reminded the panel to consider principles of fairness and prejudice, being mindful that the social worker was not on notice of this application to amend, and was not in attendance.
37. The panel accepted the advice of the Legal Adviser and considered Ms Watts' submissions. The panel determined not to exercise its discretion to amend particular 3.
38. Having taken instructions, Ms Watts made an application to amend particular 3(b) from:
- b. that all of the job applications submitted to East Riding had included your employment at Hull;*
- to
- b. that all of the job applications submitted to East Riding had included your employment at Hull, **or words to that effect***
39. Ms Watts submitted that the amendment did not prejudice the social worker and did not cause unfairness because the evidence was contained in the bundle which the social worker had not challenged.
40. The panel approached its consideration on the application to amend particular 3(b) as it had for the previous two applications to amend, being mindful that this was a late application and the social worker had not been given notice of the application.

41. The panel accepted the amendment to particular 3(b). The panel was satisfied that the amendment provided clarity and did not heighten the seriousness of particular 3(b). Allowing the amendment, at this stage, did not cause injustice or the social worker any prejudice.

Finding and reasons on facts

Panel's Approach

42. The panel reminded itself that the burden of proving the facts was on Social Work England. The social worker did not have to prove anything and the individual particulars of the Allegation could only be found proved, if the panel was satisfied on the balance of probabilities ('more likely than not').
43. In reaching its decision on facts, the panel took into account the oral, written and documentary evidence, including the social worker's representations and character references provided on her behalf. The panel also took into account the oral submissions from Ms Watts.
44. The panel noted that the social worker made general admissions to the Allegation in her written representations. Notwithstanding the admissions the panel proceeded on the basis that Social Work England was required to prove all of the particulars of the Allegation.
45. The Panel accepted the advice of the Legal Adviser.

Assessment of witnesses

46. Mr Derek Barker: Mr Barker was employed as an Area Manager at the Council. He had been in that role since 2008. He did not know the social worker personally and had not worked with her. Mr Barker was appointed to investigate the allegations against the social worker. He retired from the Council in 2019.

47. The panel found Mr Barker to be a clear, credible and reliable witness who did his best to assist the panel. He was careful not to overstate his evidence and was clear about the limits of his knowledge in relation to the social worker. The panel acknowledged his role was purely a fact finding one.
48. Ms Kim Brown: Ms Brown is currently employed as the Team Manager of the Safeguarding Adults team at the Council. She has been in this role since October 2016. Prior to this role, Ms Brown was employed as a social worker in the team from October 2012, becoming a senior social worker in August 2015. She was the social worker's line manager from January 2017 when the social worker joined the team as a Care Coordinator. Ms Brown did not directly supervise the social worker, but did meet and have discussions with her as her line manager.
49. The panel considered Ms Brown's witness statement to be fair and balanced. She had also been interviewed during the course of the investigation and the panel had seen a transcript of that interview. Ms Brown had a clear, very detailed and consistent recollection of events in relation to particular 2(a). There was no evidence before the panel to suggest that Ms Brown had an ulterior motive; in fact she commented positively on the social worker's work and capability. The panel attached significant weight to her evidence.

Assessment of the social worker

50. The panel had regard to the social worker's written representations which were contained in the following:
- A statement of 7 pages dated 3 September 2020;
 - A half page typed page provided in addition to the statement dated 3 September 2020 (undated);
 - A 1 page typed page beginning with the words "in response to the charges outlined" (undated);
 - A statement of 8 pages dated 26 October 2020.

51. The panel also had regard to the document titled “Notes of Investigatory Interview with Registrant” dated 15 August 2017 (“the interview transcript”).

Stem of Particular 1

52. The stem of the particular alleged that the social worker “provided misleading information in job applications submitted to the East Riding of Yorkshire Council (“*East Riding*”) as follows...”. The panel applied an objective test, namely that a person’s actions in submitting forms, providing statements and/or accounts can be misleading if these contain information that is objectively factually incorrect.

53. The panel went on to consider particulars 1(a) and 1(b) and the sub-particulars for each.

Particulars 1(a) (i), (ii) and (iii) – Found proved

54. The panel noted the stem for particular 1(a) referred to the social worker’s suspension from Hull City Council on 28 April 2015.

55. In his oral evidence to the panel Mr Barker stated that the interview transcript was an accurate account of his interview with the social worker and that the transcript had been checked by him and his colleague, Mr TD (Human Resources Officer at the Council). Mr Barker stated that the investigation came to an end after the interview as the social worker resigned within an hour. The panel noted the social worker’s resignation letter of 15 August 2017 in the bundle. Mr Barker was unable to confirm whether the interview transcript was sent to the social worker for her to sign and date as an accurate account. The panel noted that the document had not been signed or dated, but the social worker had not challenged the accuracy of the interview transcript in her written representations.

56. In the interview transcript the social worker (who is initialled as “DJ”) confirmed that she was suspended from Hull City Council on 28 April 2015:

“DJ Yes, what date is that?”

TD 26th of April.

DJ I wasn’t suspended until the 28th”

57. As part of his investigation, Mr Barker had obtained all of the application forms submitted by the social worker to the Council. The panel reviewed each application form and noted that on each form referred to in particular 1(a) the social worker stated “none” to the questions seeking disclosure regarding disciplinary actions.
58. The panel determined that by answering “none” on each of the three job application forms to the question seeking disclosure of disciplinary actions, the social worker had provided misleading information and created the wrong impression of her employment disciplinary history to the Council. The panel specifically noted that, in relation to particular 1(a)(i) where the social worker had submitted a job application form for the role of Social Worker on or before 5 May 2015, this was within several days of her suspension from Hull City Council.
59. The panel noted the social worker’s written representations in which she stated *“I do not deny that I failed to fully disclose my previous disciplinary matters in my job applications with ERYC. The reason for this was because I was thoroughly ashamed and was desperate to gain employment due to being the only wage earner and my financial difficulties”*.
60. Accordingly the panel found particulars 1(a) (i), (ii) and (iii) proved.

Particulars 1(b) (i), (ii), (iii),(iv),(v),(vi),(vii),(viii) and (ix) – Found proved

61. The stem for particular 1(b) refers to the social worker’s dismissal from Hull City Council on 17 November 2015 following her submission of six false mileage claims. The panel had regard to the e-mail exchange between Mr TD and Hull City Council which confirmed that the social worker was subject to a disciplinary investigation for gross misconduct and that her employment was terminated on 17 November 2015.
62. The panel considered each sub-particular in turn and the corresponding evidence, and the social worker’s written representations.

Particular 1(b)(i) – Found proved

63. The panel reviewed the application form submitted by the social worker for the position of Youth and Family Support Practitioner Level 3. The panel noted that the social worker gave her reason for leaving Hull City Council as “*short term contract. Needed more permanent post*”. In the section requiring details of any disciplinary action, the social worker replied:

“I was subject to a disciplinary hearing this year for making an error on a mileage claim. The outcome of the hearing was my dismissal from the Authority”.

64. The panel concluded that the social worker’s responses were misleading. Her contract with Hull City Council came to an end as a result of her dismissal for reasons of gross misconduct due to her submission of six false mileage claims. The social worker misled the prospective employer by omitting that she had been dismissed, and minimised her conduct for why she was subject to a disciplinary hearing to “an error” on “a” mileage claim, thereby minimising her actual conduct and omitting the full reasons for dismissal. Accordingly, the panel found this sub-particular proved.

Particular 1(b)(ii) – Found proved

65. The panel reviewed the application form submitted by the social worker for the position of Youth and Family Support Practitioner Level 1. The panel noted that the social worker gave her reason for leaving Hull City Council as “short term contract”. In the section requiring details of any disciplinary action taken against the applicant, the social worker replied “N/A”.

66. The panel considered that the social worker’s responses were misleading. Her contract with Hull City Council came to an end as a result of her dismissal for reasons of gross misconduct due to her submission of six false mileage claims. The social worker misled the prospective employer by omitting that she had been subject to disciplinary action. Accordingly, the panel found this sub-particular proved.

Particular 1(b)(iii) – Found proved

67. The panel reviewed the application form submitted by the social worker for the position of Social Worker. The panel noted that the social worker gave her reason for leaving Hull City Council as “short term contract”. In the section requiring details of any disciplinary action taken against the applicant, the social worker replied:

“I was unfairly dismissed by my previous employer on the 17/11/15 f (sic) mileage claim for making an error on my mileage claim that was not checked as required, by my Manager at the time. I immediately offered to repay the overpayment but this was not accepted by Senior Management”.

68. The panel considered that the social worker’s responses were misleading. Her contract with Hull City Council came to an end as a result of her dismissal for reasons of gross misconduct due to her submission of six false mileage claims. The social worker further misled the prospective employer by stating that she had been unfairly dismissed due to an error on her mileage claim thereby minimising her actual conduct and omitting the full reasons for her dismissal. Accordingly, the panel found this sub-particular proved.

Particular 1(b)(iv) – Found proved

69. The panel reviewed the application form submitted by the social worker for the position of Qualified Social Worker. The panel noted that the social worker gave her reason for leaving Hull City Council as “to have a change of and gain experience in having a career working as social worker within Community Care Services”. In the section requiring details of any disciplinary action taken against the applicant, the social worker stated:

“I was dismissed from Hull City Council on the 17/11/2015 following an error on my mileage claim that was authorised by my Manager. The claim related to a journey made in 2014 that was claimed in error but was not identified by my manager until February 2015”.

70. The panel considered that the social worker’s responses were misleading. Her contract with Hull City Council came to an end as a result of her dismissal for reasons of gross misconduct due to her submission of six false mileage claims. The social worker further misled the prospective employer by stating that she had been dismissed following “an

error” of a journey on a mileage claim thereby minimising her actual conduct and omitting the full reasons for her dismissal. Accordingly, the panel found this sub-particular proved.

Particular 1(b)(v) – Found proved

71. The panel reviewed the application form submitted by the social worker for the position of Community Assessment Officer. The panel noted that the social worker gave her reason for leaving Hull City Council as *“to have a change of and gain experience in having a career working as social worker within Community Care Services”*. In the section requiring details of any disciplinary action taken against the applicant, the social worker stated:

“In November 2014, I was unfairly dismissed from Hull City Council. I submitted my monthly mileage claim to my Manager, as per the process/procedures of the Council, which was approved by her. In February 2015, my Manager advised a Senior Manager that a journey in the November 2014 mileage claim had been incorrect but she did not notify and/or discuss this with me. I immediately realised that this was an error and offered to repay the amount, but this offer was refused and I was suspended until my Disciplinary on the 15th November 2014 when I was dismissed”.

72. The panel considered that the social worker’s responses were misleading. Her contract with Hull City Council came to an end as a result of her dismissal for reasons of gross misconduct due to her submission of six false mileage claims. The social worker further misled the prospective employer by stating that she had been unfairly dismissed due to a mileage claim relating to a journey in November 2014, thereby minimising her conduct and omitting the full reasons for her dismissal. Accordingly, the panel found this sub-particular proved.

Particular 1(b)(vi) – Found proved

73. The panel reviewed the application form submitted by the social worker for the position of Youth and Family Support Practitioner Level 2. The panel noted that the social worker gave her reason for leaving Hull City Council as *“to have a change of and gain experience in having a career working as social worker within Community Care*

Services”. In the section requiring details of any disciplinary action taken against the applicant, the social worker stated:

“I was unfairly dismissed by my previous employer on the 17/11/15 for making an error on my mileage claim that was not checked as required, by my Manager at the time. I immediately offered to repay the overpayment but this was refused by my employer”.

74. The panel considered that the social worker’s responses were misleading. Her contract with Hull City Council came to an end as a result of her dismissal for reasons of gross misconduct due to her submission of six false mileage claims. The social worker further misled the prospective employer by stating that she had been unfairly dismissed due to “an error” on her mileage claim thereby minimising her actual conduct and omitting the full reasons for her dismissal. Accordingly, the panel found this sub-particular proved.

Particular 1(b)(vii) – Found proved

75. The panel reviewed the application form submitted by the social worker for the position of Care Co-ordinator. The panel noted that the social worker gave her reason for leaving Hull City Council as “*unfairly dismissed*”. In the section requiring details of any disciplinary action taken against the applicant, the social worker stated:

“I was unfairly dismissed by my previous employer on the 17/11/15 for making an error on my mileage claim that was not checked as required, by my Manager at the time. I immediately offered to repay the overpayment but this was refused by my employer”.

76. The panel considered that the social worker’s responses were misleading. Her contract with Hull City Council came to an end as a result of her dismissal for reasons of gross misconduct due to her submission of six false mileage claims. The social worker further misled the prospective employer by stating that she had been unfairly dismissed due to “an error” on her mileage claim thereby minimising her actual conduct and omitting the full reasons for her dismissal. Accordingly, the panel found this sub-particular proved.

Particular 1(b)(viii) – Found proved

77. The panel reviewed the application form submitted by the social worker for the position of Leaving Care Personal Adviser. The panel noted that the social worker gave her reason for leaving Hull City Council as *“to have a change of and gain experience in supporting young people leaving the care system”*. In the section requiring details of any disciplinary action taken against the applicant, the social worker stated:

“I was unfairly dismissed by my previous employer on the 17/11/15 f (sic) mileage claim for making an error on my mileage claim. My manager had checked and authorised the payments as required, at the time. I immediately offered to repay the overpayment but this was not accepted by Senior Management”.

78. The panel considered that the social worker’s responses were misleading. Her contract with Hull City Council came to an end as a result of her dismissal for reasons of gross misconduct due to her submission of six false mileage claims. The social worker further misled the prospective employer by stating that she had been unfairly dismissed, and minimised her conduct for the reason why she was dismissed as being due to “an error” on her mileage claim, thereby minimising the extent of her actual conduct and omitting the full reasons for her dismissal. Accordingly, the panel found this sub-particular proved.

Particular 1(b)(ix) – Found proved

79. The panel reviewed the application form submitted by the social worker for the position of Family Co-ordinator. The social worker had stated that her last place of employment was North East Lincolnshire Council with an end date of May 2014. The social worker had omitted her employment with Hull City Council which started after this. In the section requiring details of any disciplinary action taken against the applicant, the social worker stated “N/A”.

80. The panel considered the responses by the social worker to be misleading to a prospective employer who would not be aware that the social worker had been employed at Hull City Council, where she became subject to disciplinary proceedings

that led to her eventual dismissal for reasons of gross misconduct due to the submission of six false mileage claims. Accordingly, the panel found this sub-particular proved.

81. In determining that the social worker had provided misleading information in the job applications referred to in the sub-particulars at 1(a) and (b) above, the panel had regard to the social worker's written representations in which she admitted that she had not fully disclosed previous disciplinary matters in her job applications. Specifically, the social worker stated the following:

"Upon reflection, I accept that I am solely responsible for ensuring that my all my previous employment and disciplinary record including my dismissal is declared".

"Following my dismissal from my previous employer in November 2015 I have made over fifty job applications of which twenty-two were to ERYC (non- social work posts). On all my job applications to ERYC, despite meeting the criteria for the posts advertised, I failed to be shortlisted for interview on any".

"I explained my situation regarding my dismissal from Hull City Council and the difficulties I was experiencing finding employment especially with ERYC. I further explained that I had applied for several non-social work/unqualified roles, despite meeting the specifications of these roles, I was concerned as to why I had not been short listed for these roles. I enquired if this was due to my dismissal. I was advised by the ERYC Recruitment staff that all job applications were considered on their own merit and would not have anything to do with my previous dismissal. However, as I have shown, this is not the case, despite paying a high price in proving this".

"I do not deny that I failed to fully disclose my previous disciplinary matters in my job applications with ERYC. The reason for this was because I was thoroughly ashamed and was desperate to gain employment due to being the only wage earner and my financial difficulties".

82. The panel took the above representations from the social worker into account in coming to their decisions on particulars 1(a) and 1(b).

Particular 2 – Found proved

83. With regard to a hearing in January 2017 before a panel of the HCPC's Conduct and Competence Committee in relation to a fitness to practise allegation against you in case number FTP42777 ("the FTP proceedings"):

a. you informed your manager at East Riding of Yorkshire Council ("East Riding") that you were attending to support a friend who had been charged with making dishonest mileage claims.

84. *The panel noted the determination of the final hearing panel in relation to the HCPC matter reference FTP42777. That hearing took place between 12 - 13 January 2017 and 20 - 21 April 2017. A panel of the HCPC's Conduct and Competence Committee considered the allegation against the social worker that she made false mileage claims and that her behaviour was dishonest. That panel found the facts proved, the social worker's fitness to practise impaired and imposed a six month suspension order.*
85. The panel considered Ms Kim Brown's witness statement and her investigatory interview. Ms Brown stated that the social worker told her that she had to give evidence at a HCPC hearing in support of a friend or colleague. Ms Brown's evidence was that the social worker told her that her friend had been sacked from Hull City Council and had copied and pasted some information from a previous mileage claim over to a fresh claim without realising the information was incorrect.
86. In her investigation interview the social worker was asked about the conversation with Ms Brown regarding the HCPC. The social worker stated that she did not recall having a conversation with Ms Brown about the HCPC. When it was further put to her that Ms Brown had recalled significant detail about the conversation, the social worker replied that: *"I can't be sure, I don't know because it's such a long time ago", and "I don't know. don't, I don't remember, I don't remember I'm really sorry, I don't remember"*.
87. In her written representations before this panel, the social worker stated that *"I cannot recall the exact conversation with Kim Brown, but I accept that I did not tell them I was attending the hearing for myself. I accept that this was dishonest"*.
88. Having considered the social worker's submissions, and carefully reviewed the evidence before it, and having assessed Ms Brown as a clear, detailed and consistent witness, the panel concluded that on the balance of probabilities the social worker had informed Ms Brown that she was attending the HCPC hearing to support a friend who had been charged with making dishonest mileage claims. Consequently the panel found particular 2(a) proved.

Particular 3

3. *During a disciplinary interview with East Riding on 15 August 2017 regarding the matters referred to at 1 above, you stated that:*

89. The panel had previously accepted Mr. Barker's evidence that the disciplinary interview transcript was an accurate account of the interview with the social worker. The social worker had not challenged the interview transcript. The panel went on to determine each sub-particular in 3.

Particular 3(a) – Found proved

a) *you had not declared the outcome of the Hull disciplinary proceedings in some of the job applications submitted to East Riding because you had been told not to do so by Hull;*

90. The panel had regard to the following passages from the transcript of the investigation interview:

DJ Well at the time I was told I couldn't discuss it because it was an ongoing investigation, so.

TD This was when you were working for us?

DJ Yes, at the time, but yes, because it's still an ongoing issue, so I wasn't able to discuss it, that was what I was told at the time.

TD And who told you that?

DJ I was told by Hull City Council that I couldn't discuss details of it until the matter had been resolved, so I went by the information that they gave me.

And

TD Before we said that you didn't put anything about your disciplinary action because You were told not to by your.

DJ Yes, I was I couldn't discuss it, yes.

TD Not to, but on some of your previous applications before, you have put it?

DJ Yes, well I did say that at the time when they said, well I shouldn't have discussed it because it was an ongoing investigation.

TD When you say it's ongoing, and I'm just talking obviously from my knowledge of an East Riding practice.

DJ Yes, yes yes.

91. The panel considered the social worker's written representations as set out at paragraph 80 above, specifically where she stated "*I do not deny that I failed to fully*

disclose my previous disciplinary matters in my job applications with ERYC. The reason for this was because I was thoroughly ashamed and was desperate to gain employment due to being the only wage earner and my financial difficulties". In another document titled "In response to the charges outlined" the social worker stated "during one of my discussions with AC and Kim Brown with regards to my previous role with Hull City Council, AC told me that if I was subject to any proceedings with the HCPC I would be told to get my' coat and it would be bye' or words to that effect".

92. The panel was satisfied, after carefully reviewing the evidence, that the social worker had stated during the investigatory interview that she had not declared the outcome of the Hull disciplinary proceedings in some of the job applications to the Council because she had been told not to do so by Hull City Council. Consequently the panel found particular 3(a) proved.

Particular 3(b) Not Proved

b) all of the job applications submitted to East Riding had included your employment at Hull, or words to that effect.

93. The panel noted that the passages of the interview specifically brought to its attention by Ms Watts was a response to the general question about how the social worker filled in job application forms.

DB *In terms of completing the application forms, could you take me through your process of completing the applications forms online?*

TD *We appreciate it was some time ago as well, so.*

DB: *"Well, I filled in the personal details, I put in all my qualifications which I brought to interview and they were photocopied and whatever. I outlined all the experience that I'd got, what I'd done in various jobs, all, everybody that I'd worked for references, yes"*

94. However, in other parts of the interview, the social worker did not provide a clear response to more specific questions asked, for example she stated:

"...but I'm pretty certain that I put it on, I'm pretty certain that I put it on" .

And

"I'd be surprised if I didn't put it on because it was one of my Social Work jobs".

95. Having carefully reviewed the interview transcript as a whole, and taking a balanced and fair approach to the evidence before it, the panel was not satisfied, on the balance of probabilities, that the social worker had stated in clear terms that all of the job applications submitted to the Council included her employment at Hull, or words to that effect. Consequently the panel found Particular 3(b) not proved.

Particular 3(c) Found Proved

c) the Hull disciplinary proceedings related to three or four mileage claims;

96. The panel noted the following exchange in the interview transcript:

***DB** And it was just for one claim was it?*

***DJ** There were, I think there was about three, three or four claims, yes because it was a copy and paste".*

97. Consequently the panel found particular 3(c) proved.

Particular 3(d) Not Proved

d) the FTP proceedings had not yet concluded and that the HCPC had suspended the case for six months after a hearing in April 2017;

98. The panel noted the following passages from the interview transcript:

DJ Right, when I went back in the April they said to me that they were suspending the case for six months till October when a review would take place and during that time I couldn't practice as a Social Worker.

And

TD OK, so what did, so this is now obviously active?

DJ Yes it is, yes. We're just waiting, I haven't got a date for the review, I have had a letter from them saying that a review will take place. I think it's something before the 14th, it has to take place before the 14th of October, something around there, but they haven't given a specific date for that.

99. The panel carefully reviewed the above passages. It did not consider that the social worker had stated that the HCPC case had not yet concluded and that the case was suspended for six months. The social worker stated that she was due to attend for a review in October 2017, that the HCPC was suspending the case for six months during which time she could not practise as a Social Worker.
100. The panel had regard to the HCPC determination and noted that the social worker was present on the first day of the hearing in January 2017. She was not present on the second day of the hearing in January, nor present when the hearing reconvened in April 2017, though she continued to be represented by Counsel in her absence. The panel considered that the social worker, as a lay person in attendance only on the first day of her fitness to practise hearing, may not have been familiar with the various stages of proceedings and her comments in the interview relating to this particular should be seen in this light.
101. Mr Barker was asked by the panel what he had understood from the social worker's responses in the investigation interview regarding the HCPC proceedings. Mr Barker stated that he understood the social worker to have said that she had been suspended from the HCPC register since April 2017.
102. Following a careful review of all the evidence before it, the panel determined that on the balance of probabilities the social worker did not state as alleged at particular 3(d). Consequently the panel did not find particular 3(d) proved.

Particular 3(f) Found Proved

- f) you had been open and honest during the interview.*

The Panel noted that Ms Watts did not press this particular as one which the panel could or should find proved. The panel reviewed the interview transcript and noted that the social worker stated towards the end of her interview:

***DJ** Yes I have been open and honest here this morning.*

***DJ** But I have been, I have been open and honest".*

103. Consequently the panel found particular 3(f) proved.

Particular 4

4. Your actions described in paragraphs 1 to 3 were dishonest.

104. The panel considered each particular in two parts by applying the guidance from the Supreme Court decision in *Ivey v Genting Casinos [2017] UKSC 67 (at para 74)* [the Ivey test]. In applying the Ivey test, the panel first decided the social worker's knowledge or belief as to the factual circumstances of her conduct as set out in particulars 1 to 3 of the Allegation. The panel understood that the social worker's belief did not have to be reasonable, so long as it was genuinely held. The panel then considered whether, based on the factual circumstances it had found, the social worker's conduct was dishonest by the (objective) standards of ordinary decent people. The panel understood that there was no requirement that the social worker must appreciate that what she had done was, by those standards, dishonest.

Particular 1(a) and 1(b) – (Dishonesty) – Found Proved

105. The panel considered dishonesty with respect to particulars 1(a) and 1(b) together as the conduct found proved related to providing misleading information in job application forms referred to at 1(a) (i), (ii) and (iii), and 1(b) (i), (ii), (iii), (iv), (v), (vi), (vii), (viii) and (ix).

106. In relation to particular 1(a), the panel considered that when completing the three application forms, the social worker's knowledge and belief was that she had been suspended from Hull City Council following the initiation of a disciplinary investigation on 28 April 2015. One application form was completed on or before 5 May 2015, which was within several days of her suspension. The panel was satisfied that the social worker was in no doubt as to her true position and that the entries on the application forms had been made deliberately.

107. In these circumstances, and applying the Ivey test, the panel had no hesitation in finding that the social worker was dishonest when she submitted the three application

forms at 1(a). In each form she had stated “none” to the question of “any/all disciplinary action taken against you”. The application forms contained misleading information, and these responses were not true. The panel was satisfied that an ordinary, decent person would judge the social worker’s conduct to be dishonest.

108. In relation to particular 1(b), the social worker had provided responses on job applications forms which did not reflect her true position. Various, the social worker:

- Repeatedly stated that she had made “an error” on “a mileage claim”
- Repeatedly stated that she left Hull City Council because she was on a “short term contract” and/or “to have a change and gain experience....”
- Repeatedly stated that she had been “unfairly dismissed”;
- Replied with “N/A” on two application forms in response to the disciplinary action disclosure request;
- Omitted her employment with Hull City Council on an application form.

109. The panel determined that the social worker’s knowledge and belief at the time of completing the application forms was that she had been dismissed for gross misconduct by Hull City Council on 17 November 2015 following her disciplinary hearing at which she was found to have submitted six false mileage claims. The panel was satisfied that the social worker was in no doubt as to her true position and that the entries on the application forms were untrue and had been made deliberately.

110. Applying the second limb of Ivey, the panel had no hesitation in finding that the social worker was dishonest. The social worker had made repeated and deliberate entries on job application forms that were misleading and untrue, and she submitted these forms to the Council, individually, over a number of months. The panel was satisfied that an ordinary, decent person would judge the social worker’s conduct to be dishonest.

111. The panel also had regard to the social worker’s written representations:

“Upon reflection, I accept that I am solely responsible for ensuring that my all my previous employment and disciplinary record including my dismissal is declared”.

“Following my dismissal from my previous employer in November 2015 I have made over fifty job applications of which twenty-two were to ERYC (non- social work posts). On all my job applications to ERYC, despite meeting the criteria for the posts advertised, I failed to be shortlisted for interview on any”.

“.....on the advice of my jobs coach I attended a Jobs Fair at my local Jobs Centre on the 4th May 2016 where ERYC Recruitment Services were present....I explained my situation regarding my dismissal from Hull City Council and the difficulties I was experiencing finding employment especially with ERYC. I further explained that I had applied for several non-social work/unqualified roles, despite meeting the specifications of these roles, I was concerned as to why I had not been short listed for these roles. I enquired if this was due to my dismissal. I was advised by the ERYC Recruitment staff that all job applications were considered on their own merit and would not have anything to do with my previous dismissal. However, as I have shown, this is not the case, despite paying a high price in proving this”.

“I do not deny that I failed to fully disclose my previous disciplinary matters in my job

applications with ERYC. The reason for this was because I was thoroughly ashamed and was desperate to gain employment due to being the only wage earner and my financial_difficulties”.

112. In response to the job application for the role of Family Co-ordinator at particular 1b(ix) in which the social worker omitted her employment at Hull City Council, the social worker stated that:

“To test out the Council’s explanation, I made an application for the Family Coordinator omitting my previous employer from this application. As a result, I was successful in being shortlisted for an interview. However, I subsequently contacted Recruitment Services at the Council to advise that I would not be attending this interview and wished to withdraw my application as I felt that I had proved my point”.

“Upon reflection I accept that I should have made the Manager aware of my previous employer and my dismissal. I recognise and accept that in failing to disclose such information was dishonest.”

113. The panel took the social worker’s written representations and admissions into account and concluded that her conduct at particulars 1(a) and 1(b) was dishonest.

Particular 2(a) – (Dishonesty) – Found Proved

114. In respect of particular 2(a) the panel determined that the social worker’s knowledge and belief at the time of informing Ms Brown of her reasons for attending the HCPC

hearing in January 2017 was that she was attending the hearing in relation to a fitness to practise allegation against herself, and not on behalf of a friend or colleague. The panel determined, applying the objective standard of ordinary and decent people, that by deliberating concealing this fact in her representations to Ms Brown, the social worker was dishonest.

115. The panel took into account the social worker's representations in which stated that *"I cannot recall the exact conversation with Kim Brown, but I accept that I did not tell them I was attending the hearing for myself. I accept that this was dishonest"*.

116. Consequently the panel found the allegation of dishonesty in relation to particular 2(a) proved.

Particular 3(a) – (Dishonesty) – Found Proved

117. The panel first considered the social worker's knowledge and belief. The panel noted that in her investigation interview of 15 August 2017, the social worker stated:

"DJ I was told by Hull City Council that I couldn't discuss details of it until the matter had been resolved, so I went by the information that they gave me".

118. The panel determined the social worker's knowledge was that the disciplinary proceedings with Hull City Council had concluded in November 2015 and she knew that she had been dismissed for gross misconduct due to the false submission of six mileage claims. Her statement in interview that she was informed by Hull City Council not to declare her disciplinary proceedings to the Council in job applications was therefore untrue.

119. The panel accepted the social worker's written submission that she did not deny her failure to fully disclose her previously disciplinary matters with the Council, and that she did so because she *"was thoroughly ashamed and was desperate to gain employment due to being the only wage earner and my financial difficulties"*.

120. Applying the objective standard of the Ivey test, the panel considered that an ordinary decent person would consider that by stating the social worker was told by

Hull City Council not to declare her disciplinary proceedings in job applications to the Council, her conduct was dishonest.

121. For all the above reasons, the panel concluded that in relation to particular 3(a), the social worker's conduct was dishonest.

Particular 3(c) – (Dishonesty) – Found Proved

122. At the time of the investigation interview in August 2017, the social worker:

- Had been dismissed by Hull City Council in November 2015 for reasons of gross misconduct due to her falsely submitting six mileage claims;
- Had attended HCPC proceedings in relation to the six submissions of false mileage claims in January 2017;
- Was suspended by the HCPC in April 2017 for 6 months;
- Was subject to her HCPC suspension at the time of interview.

123. The panel considered the above factual circumstances and determined that the social worker's knowledge and belief at the time of the investigation interview was that she knew that the Hull disciplinary proceedings related to six mileage claims, and not "three or four". The panel was satisfied that it could rule out any mistake on her part as the interview took place four months from the conclusion of the HCPC proceedings, and during the time when the social worker was subject to the HCPC's suspension of six months.

124. In these circumstances, and applying the Ivey test, the panel had no hesitation in finding that an ordinary decent person would judge the social worker's conduct when she made the statement at particular 3(c), to have been dishonest.

Particular 3(f) – (Dishonesty) – Found Proved

125. The panel considered the factual particulars found proved, and determined that the social worker's knowledge or belief at the time of the investigation interview included:

- Her submission of job application forms to the Council in which she knew that she had misrepresented her employment and disciplinary history;

- Her statement that she had been informed by Hull City Council not to declare her disciplinary proceedings to the Council, which she knew at this stage she ought to have declared;
- Her statement that the proceedings at Hull City Council related to “three or four mileage claims” when she knew the proceedings related to six false mileage claims having been subject to recent HCPC proceedings in relation to these claims and, at the time of interview, was subject to the HCPC suspension order of six months.

126. The social worker knew that she was not open and honest in her interview. The panel considered that she was attempting to minimise her culpability in respect of the allegations being investigated.

127. In these circumstances, and applying the Ivey test, the panel had no hesitation in finding that the social worker was not open and was dishonest during the interview, and it was satisfied that an ordinary, decent person would judge the social worker’s conduct to be dishonest.

Finding and reasons on grounds

128. The panel considered the submissions by Ms Watts on behalf of Social Work England, and the written representations from the social worker. It received and accepted the advice of the Legal Adviser. The panel bore in mind that the issue of misconduct was a matter for its own judgment and that there is no standard of proof to be applied at this stage.

129. With regard to misconduct, the panel bore in mind the guidance of Lord Clyde in *Roylance v GMC* [No 2] 2000 1 AC 311. It noted that misconduct involves an act or omission which fell short of what would be proper in the circumstances and that not every falling short of the expected standard amounts to misconduct: the falling short must be serious and one which would attract a degree of strong public disapproval, and may be considered deplorable by other professionals.

130. In coming to a decision on the grounds, the panel first considered the individual particulars found proved and then the social worker’s behaviour in the round.

131. The panel had found that the social worker:

- Completed twelve job application forms in which she provided inaccurate information regarding her employment and disciplinary history between April 2015 to April 2016.
- Informed her line manager that she was attending a HCPC hearing for a friend or colleague, and not for herself in January 2017.
- Provided inaccurate information to her employer during her investigatory interview in August 2017.

132. The panel considered that the social worker's dishonest conduct was deliberate and serious and was repeated over a period of over two years. The social worker concealed her conduct from colleagues and employers. In the job application forms, some of the social worker's responses were calculated to be misleading in that she used words such as "*unfairly dismissed*" and "*short term contract....wanted a career change*" to minimise and/covers up dishonest conduct.

133. The social worker had had numerous opportunities to remedy her dishonesty. For example, the social worker:

- having secured the role of Family Care Co-ordinator at the Council, should have informed her employer of the omission of Hull City Council from her job application and the reasons why, but she deliberately chose not to.
- having told her line manager in January 2017 that she was attending an HCPC hearing for her friend or colleague, at no time subsequently did she inform her line manager that she faced an allegation at the HCPC and this was deliberate.
- instead of admitting all of her dishonest conduct from the previous years in her investigation interview, chose to maintain some of the lies previously told, and on occasions, continued to justify and minimise her conduct. For example, the social worker's explanations of her inaccurate entries on job application forms submitted after her dismissal from Hull City Council; and her response that her dismissal related to "three or four" false mileage claims.

134. The panel took into account the social worker's written representations in which she admitted some parts of the Allegation and she understood that it was her responsibility to ensure the accuracy of her employment and disciplinary history on job application forms. The social worker accepted her conduct fell short of the expectations of a social worker, and the requirement to act with integrity and to be honest and trustworthy.

135. The panel considered that the social worker's conduct placed her in breach of the following HCPC Standards of Conduct, Performance and Ethics (2016) which were the standards applicable to the social worker at the time:

3: You must keep high standards of personal and professional conduct; and

13: You must behave with honesty and integrity and make sure that your behaviour does not damage the public's confidence in the profession

136. The panel concluded that because of the sustained pattern of the social worker's dishonest conduct, fellow practitioners and the wider public would find her conduct to have been "deplorable". Accordingly, the panel found that the social worker's conduct seriously fell short of what would have been proper in the circumstances and was sufficiently serious to constitute misconduct.

Finding and reasons on current impairment

137. Having found misconduct, the panel went on to consider whether, as a result of that misconduct, the social worker's current fitness to practise was impaired. Impairment was a matter for the judgment of the panel. The panel kept in mind that not every finding of misconduct will necessarily result in a conclusion that fitness to practise is currently impaired. The panel was also mindful that it must consider the currency of the alleged impairment.

138. The panel weighed up all of the evidence and the submissions made by Ms Watts and the social worker's written representations. The panel accepted the advice of the Legal Adviser who advised the panel to consider Dame Janet Smith's comment in the *5th Report to the Shipman Inquiry* where she identified four matters for consideration when considering whether a practitioner's fitness to practise is impaired: do the

panel's findings of fact in respect of the practitioner's misconduct show that her fitness to practise is impaired, in the sense that she:

- (a) has in the past acted and/or is liable in the future to act so as to put a service user or service users at unwarranted risk of harm; and/or
- (b) has in the past brought and/or is liable in the future to bring the Social Work profession into disrepute; and/or
- (c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the Social Work profession: and/or
- (d) has in the past acted dishonestly and/or is liable to act dishonestly in the future.

139. The Legal Adviser reminded the panel, in accordance with the case of *Cohen v General Medical Council* [2008] EWHC 581, that it was relevant to ask whether the social worker's conduct is easily remediable, whether it has been remedied and whether it is highly unlikely to be repeated. In so doing the panel would examine whether or not the social worker had demonstrated insight into her behaviour.

140. With respect to dishonesty the Legal Adviser said that it would be wrong for the panel to approach the issue of impairment by assuming that any allegation of dishonesty found proved automatically resulted in a finding of impairment. She advised the panel that when considering dishonesty and impairment it should take into account the nature of what occurred, including whether the dishonesty required forethought and planning, the seriousness of the potential outcome of the dishonest actions, and the surrounding circumstances.

141. She also advised the panel to consider the public interest in accordance with the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Paula Grant* [2011] EWHC 927 (Admin). She urged the panel to consider the guidance provided by Social Work England on the meaning of impairment, provided in its Sanctions Guidance and Social Work England's over-arching objective.

142. The panel accepted the advice of the Legal Adviser and had regard to Social Work England's Sanctions Guidance on Impairment. The panel considered the social worker's fitness to practise at today's date.

143. The panel considered that dishonesty is always hard to remediate. It noted that although the social worker admitted some parts of the Allegation in her written representations, the admission was in general terms, with specific admissions of dishonesty made in relation to her failure to inform the Council of her dishonest conduct before December 2015 and her conduct at particular 2(a). The panel took into account the social worker's referral letter to the HCPC dated 25 August 2017 in which she stated "*I accept full responsibility for my actions and I apologise unreservedly*" and "*following a great deal of reflection I know that I should have disclosed this information*" (referring only to her failure to disclose her employment at Hull City Council on an application form and the HCPC hearing in 2017).

144. In the absence of the social worker, the panel carefully considered her written representations. These representations had been submitted between 3 September 2020 and 26 October 2020. The panel was not satisfied that the social worker had demonstrated sufficient insight. Specifically the panel noted that the social worker continued to excuse and minimise aspects of her conduct. The social worker shifted some of the blame to the Council by stating that:

- The Council could have sought employment references at any time but chose not to.
- Mr Barker was accountable for ensuring that the recruitment process at the Council was honest and fair when she queried whether it was due to her dismissal that she was not shortlisted for an interview.
- She contacted the Council's Recruitment Services in advance of her investigatory interview to establish why she was being investigated and was informed that no information could be provided until she attended the interview. The social worker strongly implied that the lack of advance information prevented her from providing an accurate account in the interview.

145. The panel considered the social worker's explanation for omitting Hull City Council in her application for the role of Family Co-ordinator was to "*test the Council's explanation*", and that she subsequently withdrew her application and informed the Council she would not attend an interview because "*I had proved my point*". The panel noted that having taken these steps, the social worker went on to attend an interview

when invited and accepted and then fulfilled the role. At no point did the social worker inform the Council of her employment and dismissal at Hull City Council. The panel gave little weight to the social worker's statements that she "*frequently discussed*" her roles at Hull City Council during her employment and that neither staff nor recruitment at the Council queried this. The panel considered these statements undermined her representations of openness and transparency.

146. The social worker submitted that she acted honestly by referring herself to the HCPC on 25 August 2017. The panel reviewed the referral documentation and noted that, by this date, it was clear to the social worker following the investigation interview of 15 August 2017 and her resignation letter of the same date, that a referral to the HCPC was imminent. The panel noted the letter from Mr Barker to the social worker dated 22 August 2017 which stated that the Council would be making a referral to the HCPC. The social worker therefore had no choice but to refer herself. The panel viewed this chain of events, along with the social worker's submission that she resigned with immediate effect to "*restore public confidence in the Social Work profession*", and her assertion that this is what her colleagues would have expected of her, to be a disingenuous attempt at demonstrating honesty.

147. The panel reviewed the "Return to Social Work Panel Feedback Form for Critical Reflective Log and Personal Development" document, provided by the social worker, which pre-dated her written submissions of 26 October 2020. This document was completed by a "Ms CS" who was aware of the social worker's dismissal and conditions of practice order. The panel noted Ms CS's positive comments that the social worker was open and honest with regards to the challenges she faced in returning to practice, was committed to learning, reflective, made excellent use of her skills and knowledge and evidenced a good understanding of the Social Work profession.

148. The panel accepted that the social worker was a competent Social Worker in terms of her direct work with service users. It had regard to Ms Brown's evidence that when the social worker resigned, the team was "*absolutely devastated because she was an excellent worker and colleague*". Ms Brown stated that the social worker was "*a very good and supportive worker, and she seemed to pick up on information about the*

surrounding areas and safeguarding concerns so quickly. Nobody in the team had anything negative to say about Deborah Johnson. I was quite devastated when she left....” Ms Brown felt that the Council would have supported the social worker had she made them aware of the situation, and that “the whole team was just sorry to lose her; the social worker’s leaving did have an impact on the team because she was so competent and so well liked and respected”.

149. The panel, however, found that the social worker’s efforts to demonstrate remediation and insight into her repeated dishonest conduct was undermined by her written representations of 26 October 2020, which superseded the Return to Social Work document. There was no real explanation for her dishonest conduct, and the evidence of remediation was limited. The panel was not convinced that the social worker would not repeat similar conduct, and in this regard it had taken into account the HCPC proceedings from 2017 in which the social worker was found to be dishonest by a panel of the Conduct and Competence Committee. The panel determined that there was a risk of repetition and that this risk was high.

150. The panel next considered the wider public interest considerations including the need to maintain public confidence in the profession and uphold standards of conduct and behaviour. The panel noted there was no evidence of direct risk to service users, but that the public interest included the wider public who need to have confidence that Social Workers act with honesty and integrity at all times. Social Workers deal with vulnerable members of the public. The importance of honesty and integrity cannot be overestimated.

151. The panel noted the social worker’s reflections and remorse, where she stated that she had been “*stupid and irresponsible*”, and had undermined public confidence in the Social Work profession and apologised unreservedly for bringing the profession into disrepute. However, the panel considered that while the social worker may have reflected on the impact of her misconduct on service users and the profession more recently, she had chosen to continue to minimise her dishonest conduct in her representations despite having had the time and opportunity to reflect. Her wider

reflection of the impact of her conduct on the profession and the wider public interest was therefore incomplete.

152. The panel noted the positive and supportive comments said about the social worker in the four testimonials it had received in evidence. Although the testimonials were recently dated, the panel was unable satisfy itself that the authors of the testimonials were fully cognisant of the Allegation the social worker faced at this hearing and the reasons behind her dismissal from Hull City Council and the Council. Only one referee mentioned the social worker's dismissal and resignation. Accordingly the panel attached very limited weight to the testimonials.

153. The panel considered that the social worker's conduct represented serious breaches that went to the core of the role of a Social Worker and undermined the proper standards of conduct and behaviour in the profession. The panel considered that limbs (b), (c) and (d) of Dame Janet Smith's criteria referred to above were engaged.

154. The panel was satisfied that public confidence in the Social Work profession would be undermined if there were no finding of impairment in this case. The panel considered that a reasonable and informed member of the public would be very concerned if there were no finding of impairment in a case where a social worker's misconduct involved repeated acts of dishonesty that had persisted over a period of time and where the social worker had been previously found to be dishonest by her regulatory body. It was also important for other social workers to understand from this case the standards they are expected to meet.

155. Accordingly, the panel concluded that the social worker's fitness to practise was currently impaired.

Social Worker's further submissions following the panel's findings of fact

156. On day 4 of the hearing, at approximately 12:30pm, the panel had handed down its decision on facts. After the lunch break, the panel was asked by Ms Watts whether it would like the factual determination to be sent to the social worker. The panel considered the legal advice received earlier in the hearing in relation to Rule 32(c), and

the telephone attendance note between Social Work England (Mr Topham) and the social worker of 3 November 2020 which stated:

“JDT informed DJ that she does not need to attend every day of the hearing and if she wanted to it could be arranged for her to attend one day so she could give oral submissions to the panel or ask witnesses questions if she wished. DJ thanked JDT for this, but stated that she felt she had provided everything she wanted to say in her statement. DJ stated that she had attended all the other hearings and felt that it was more important at this time to care for her husband. JDT stated that if she changed her mind, or wished to submit any further documents up to the hearing, then she can email these to JDT and he will put them forward”.

157. The panel also had regard to Social Work England’s “Guidance on Service of Notices and Proceeding in the Absence of the Social Worker” (last updated 5 December 2019) which stated:

‘If a social worker is absent and the hearing proceeds, the decisions of the panel at each stage should be communicated to the social worker. There is no requirement to adjourn after each decision to see if the social worker then wishes to take part in the hearing.’

158. The panel determined that its decision on facts should be communicated to the social worker. Ms Watts asked the panel whether they wanted to await a response from the social worker to the factual determination before proceeding to the next stage. The panel did not, and it went on to hear submissions and receive legal advice shortly after 2:30pm. The panel retired to consider misconduct and impairment on day 4.

159. On day 5, at 3:05pm, the panel handed down its decision on misconduct and impairment. The panel was then informed by Ms Watts that the social worker had, in the interim, provided further submissions, following receipt of the decision on facts. Neither the Legal Adviser nor the panel had been informed that the social worker had sent in further submissions prior to the handing down of its misconduct and impairment decision, and accordingly the panel had not taken the submissions into account. The panel considered that the omission to provide it with the social worker’s further submissions prior to making and handing down its determination on misconduct and impairment required exploration. The Legal Adviser then sent the further submissions to the panel but the panel resolved not to read them at this point.

160. Ms Watts referred the panel to its earlier indication that it did not wish to await a response from the social worker to its factual determination before proceeding to the next stage. She referred to the reasons the panel gave earlier regarding proceeding in absence and submitted that Social Work England had gone “above and beyond” to engage the social worker by ensuring that she had been provided every opportunity to participate in these proceedings. She stated that Social Work England had been fair throughout. Ms Watts submitted that the panel had an inherent power to correct any unfairness in these proceedings. She provided the Legal Adviser with an email from Social Work England which showed that Social Work England was in receipt of the social worker’s submissions shortly before 9am on Day 5, while the panel were in camera.

161. The Legal Adviser reminded the panel of Rule 32(a)(iii) which stated that the panel may regulate its own procedures and must conduct the hearing in the manner it considers fair, and that it can decide the form of any hearing. Rule 32(c) was relevant as it allowed for a social worker to respond to each stage of the proceedings by adducing relevant evidence and that before making a determination at each stage, the panel may invite the regulator and social worker to make closing submissions on the matter to be determined.

162. The Legal Adviser referred the panel to the case of *R (on the application of Hill) v Institute of Chartered Accountants in England and Wales* (2013) EWCA Civ 555 in which the Court of Appeal stated that an agreement by a registrant’s solicitor to a proposed course of action in a hearing meant that there had been no breach of natural justice, because the agreement was informed, voluntary, and unequivocal. The Legal Adviser suggested that a proposed course of action, to remedy any perceived unfairness, could be that Social Work England seeks agreement with the social worker for her further submissions to be put before the panel for it to reconsider its decision on misconduct and impairment. The Legal Adviser also referred the panel to the case of *Sanusi v General Medical Council* [2019] EWCA Civ 1172 (which also referred to the case of *GMC v Adeogba*) in which Lady Justice Simler stated at paragraph 70:

“... in a case where a registrant chooses not to attend a tribunal hearing (for good or bad reason) he or she must be taken to appreciate that if adverse

findings are made they ... will be entirely reliant on any written submissions or representations made ... in advance of the hearing."

163. On day 6 of the hearing, the Legal Adviser was asked by the panel to advise on the panel's powers to re-open its decision on misconduct and impairment and to reconsider its decision in light of the further submissions from the social worker, and secondly, if it decided to amend its decision, whether the amended decision should be communicated to the social worker and a response awaited before moving to the next stage.

164. The Legal Adviser referred to Rule 32 and reminded the panel of its powers to regulate its own procedures in a hearing in line with the principles of fairness. She asked the panel to have in mind the interests of justice and Social Work England's over-arching objective when considering whether to exercise its discretion to decide the form of the hearing. The Legal Adviser referred the panel to the cases of *TZ v GMC* [2015] EWHC 1001 (Admin) in which the High Court affirmed the principle that disciplinary tribunals have a discretion to admit and consider new evidence before formally delivering their findings of fact if it is in the interests of justice, and the principles in *Ladd v. Marshall* [1954] 1WLR 1489; however, she distinguished these cases from the present proceedings. In *TZ v. GMC* the decision was embargoed and had not been handed down publicly. Both cases referred to the fact finding stages and the omission of evidence. The Legal Adviser referred to some of the general principles in these cases – emphasising that they provide a useful guide for a tribunal at first instance considering a request to submit further evidence - namely that the panel will need to consider whether the omission to provide the panel with the social worker's further submissions might have an impact on the fairness of the proceedings at subsequent stages, and whether the social worker might suffer prejudice. She stated that Social Work England's Rules and Regulations did not prohibit the re-opening of a decision handed down at the misconduct and impairment stage, and that the panel may consider it fair to reconsider this stage in view of it not having been given sight of the social worker's further submissions prior to handing down its decision on misconduct and impairment.

165. The Legal Adviser made the panel aware that the social worker had responded with another set of submissions after having received its decision on misconduct and impairment over the intervening weekend. The Legal Adviser suggested that these further submissions would be relevant at the next stage.

166. The Legal Adviser stated that if the panel decided to exercise its discretion to reconsider its misconduct and impairment decision in light of the social worker's submissions following facts, and if it went on to amend its decision, then, the panel should wait for a response from the social worker to the amended decision. The Legal Adviser distinguished the case of *GMC v. Sanusi* from these proceedings.

167. Ms Watts made the following observations:

- It could not be said that there was an expectation by the social worker that her further submissions received on day 5 would be considered by the panel, and it could not be said what her intention was with respect to the submissions;
- The panel had determined not to await a response to the factual determination from the social worker;
- Social Work England had done its utmost to ensure that these proceedings had been fair to the social worker;
- The cases of *TZ v. GMC* and *Ladd v. Marshall* should be disregarded because they refer to the omission of evidence at the facts stage;
- The social worker had provided observations that were entirely relevant for the panel to have considered between its handing down of facts and its decision on misconduct and impairment;
- The panel did not need to re-open its determination on misconduct and impairment; it could read the social worker's submissions and then make its decision on re-opening;
- The panel's only obligation in the Rules was to communicate its decision in writing to the parties;
- The panel had a power to re-open its decision on misconduct and impairment under Rule 32 in line with the principles of fairness, natural justice and the over-riding objective.

Panel's decision

168. The panel considered the published guidance from Social Work England referred to above, the social worker's conversation with Mr Topham as noted in the telephone attendance note of 3 November 2020 (above) and the Legal Advice referred to in its factual determination regarding Rule 32. It considered that these may have given rise to a legitimate expectation by the social worker that as she was receiving the panel's decision on facts, any further submissions she chose to make would have been taken into account at the misconduct and impairment stage. Indeed, the panel took into account that the social worker could, if she wished, have changed her mind and decided to attend the hearing at any time. This was despite the fact that the panel had originally determined to proceed with the hearing in her absence.
169. The panel took into account the email referred to in paragraph 5 above, and satisfied itself that the omission to provide the panel with the social worker's further submissions prior to its handing down on misconduct and impairment was not due to any fault on the social worker's part.
170. The panel considered that in all the circumstances, the fact that it had not been provided with the social worker's submissions following the handing down of its decision on the facts could have given rise to a procedural irregularity that was potentially unfair and prejudicial to the social worker. The panel accepted the advice of the Legal Adviser, which was also endorsed by Ms Watts, that the case law referred to in paragraph 9 above was distinguishable from the circumstances of these proceedings.
171. The panel determined that it was in the interests of justice and fairness to re-open its decision on misconduct and impairment pursuant to its powers to regulate its own proceedings under Rule 32. The panel read and fully considered the social worker's further submissions in which she stated as follows:

"In relation to the document, I have received from my hearing on 26th November 2020, I make the following response:

Notes 68-77:

I do not deny that I stated on this application that I was 'Unfairly dismissed'.

This is my opinion and I understand that I am entitled to feel that I was unfairly dismissed.

Furthermore, in my detailed response outlining the reasons for my dismissal, I can see how omitting the letter 'S' from mileage claim could be considered misleading on my application. However, it was never my intention to deliberately provide misleading information.

ERYC could have contacted Hull CC at any time to clarify this information. Had ERYC requested the details of my previous Manager at Hull CC as part of their Recruitment checks, I would have provided them with this information. On some of my job applications I had submitted the details of a Reference from Hull CC and these could have been followed up at any point during the Recruitment process and during my employment within ERYC.

91: *Senior Manager, K.R who was not my Supervisory Manager, advised during and after my Disciplinary, that I was not to discuss any aspect of my Disciplinary outside of Hull CC. Furthermore, neither I nor any close members of my family were not permitted to enter that area of Hull where the office was based at that time in West Hull.*

I do not deny that despite these instructions, I did declare my Disciplinary on some of my applications. My reasons for taking this action was that I had learnt that legally neither K.R or any member of Hull CC could not prevent me or any member of my family from entering any area of the City of Hull. Furthermore, I felt strongly that ERYC Recruitment Services were not acting as open, honest and transparent as they claimed to be. I do feel that I have been able to prove this point because when omitting my dismissal from Hull CC on my applications, I was shortlisted for roles, when declaring my dismissal on my applications, I failed to get shortlisted for roles. I feel that I have more than proved my point, despite paying a high price in proving this.

96: *I do not deny that I could not recall the exact number of mileage claims when asked at this Investigatory interview. However, had D.B and T.D advised me of what 'Recruitment Irregularities' meant, I would have been better prepared by providing details of the exact number of mileage claims with detailed dates and any other additional information they required at that time.*

At no point during my employment with ERYC and Hull CC had any member of the public suffered significant harm and/or placed at any risk of harm.

I am under no illusion of what the outcome of this hearing will be, but I feel that I have done everything possible to demonstrate that I have learnt from these mistakes and this has been evidenced to my caseworker at SWE and the high standards of support that I provided to the service users on my caseload. Furthermore, I enrolled

on the Return to Social Work Programme and received excellent feedback from my Tutors and the Chief Executive of this programme.

I very much want to be able to have an opportunity to put into practice all the valuable lessons I have learnt in order to make amends to service users, colleagues and my profession.

I have been proud of my direct social work with service users and colleagues and it is a role that I will greatly miss”.

172. Having carefully considered the social worker’s further submissions, the panel concluded that they did not alter its determination on misconduct and impairment. The panel noted that the further submissions were the social worker’s response to the factual determination. The social worker had provided reasons why she disagreed with aspects of the panel’s determination on facts. The panel considered that the further submissions did not materially add to the social worker’s submissions that were previously before the panel prior to its consideration of misconduct and impairment. The panel therefore concluded that its decision on misconduct and impairment, as set out above, need not be altered.

173. The hearing could not be concluded in the allocated time, and was adjourned to a date in late January 2021. The Legal Adviser informed the panel of Regulation 11(1)(3) of The Social Workers Regulations 2018 which stated that it may make any interim order if it considered it necessary for the protection of the public or in the best interests of the social worker. The protection of the public encompassed the wider public interest.

174. The Legal Adviser reminded the panel of her previous advice in respect of proceeding in absence.

175. The Legal Adviser reminded the panel that it had made findings of fact on a number of particulars that included dishonesty, that the panel had determined the dishonest conduct amounted to misconduct and that the social worker’s fitness to practise was currently impaired. She reminded the panel that the social worker was currently subject to a substantive conditions of practice order in respect of another matter.

176. The Legal Adviser referred the panel to the case of R (Sheikh) v GDC [2007] EWHC 2972 (Admin) in which it was said that the bar is set high to impose an interim order on public interest grounds alone. A useful test for the panel to consider was whether a reasonable fully informed onlooker would be surprised to learn that the social worker was allowed to continue to practice unrestricted following their findings of current impairment as to fitness to practise, pending the conclusion of this case in January 2021.
177. The Legal Adviser reminded the panel of the over-arching objective and that, if it concluded that an interim order is necessary, that it must consider first whether an interim conditions of practice order would be sufficient to alleviate the risks identified, and that only if it was not, it should go on to consider an interim suspension order.
178. Ms Watts agreed with the Legal Advice. She stated that an interim order can only be made if it is necessary and must not be merely desirable. Ms Watts confirmed to the panel that the existing substantive conditions of practice order was due to be reviewed in February 2021.
179. The panel considered that it was in the interests of justice to proceed in the social worker's absence for the reasons mentioned earlier in its determination.
180. The panel considered whether an interim order was necessary for the protection of the public. The panel had determined that the social worker's fitness to practice was impaired for the protection of the public, which includes the wider public interest. The panel had noted in its determination on impairment that the social worker was a competent practitioner and that she did not pose a risk to service users. Having regard to the very high threshold required to impose an interim order for the protection of the public, the panel concluded that an interim order was not necessary in this case.

Notice of Service:

181. The hearing resumed on 27 January 2021 for two days. The social worker did not attend and was not represented. The panel was informed by Mr Adrian Harris on behalf of Social Work England that notice of this hearing was sent to the social worker by Mr Philip Bowden (Head of Adjudication at Social Work England) via email on 6 January 2021. The email address for the social worker was the same as that shown on Social Work England's Register. Mr Harris referred the panel to a telephone attendance note dated 27 January 2021 which stated that the social worker was content to waive the 28 day notice requirement and that she wanted the hearing to conclude "this week". Mr Harris submitted that the notice of hearing had been duly served.

182. The panel accepted the advice of the legal adviser in relation to service of notice.

183. The panel considered the service bundle and Mr Bowden's email of 6 January 2021 attaching the notice of hearing of the same date. The panel had regard to the extract from the Register and the Statement of Service of Mr Bowden. The panel noted that the social worker had responded to the email of 6 January 2021 on the same date acknowledging the notice of hearing that was attached. The panel was content that the social worker had waived the 28 day notice requirement as per the contents of the telephone attendance note. Having had regard to the legal advice 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 the social worker in accordance with Rules 14, 15, 44 and 45. On day two of the resumed hearing the panel was provided with an email from the social worker dated 27 January 2021 in which she confirmed what she had informed Social Work England in the telephone attendance note; that she consented to waive the 28 day notice period.

Proceeding in the absence of the social worker:

184. The panel heard the submissions of Mr Harris on behalf of Social Work England. He submitted that notice of this hearing had been duly served. He referred the panel to

the email of 6 January 2021 where the social worker stated that she will not be attending the resumed hearing due to personal reasons and was content for the hearing to proceed in her absence. Mr Harris drew the panel's attention to the telephone attendance note in which it was recorded that the social worker had stated that she just wants the hearing over and done with and to conclude this week and please do whatever is needed to conclude. Mr Harris submitted that the social worker had voluntarily absented herself and invited the panel to proceed in the interests of justice and the expeditious disposal of this hearing.

185. 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 and the cases of *R v Jones* [2002] UKHL 5 and the *General Medical Council v Adeogba* [2016] EWCA Civ 162.

186. The panel considered all of the information before it, together with the submissions made by Mr Harris on behalf of Social Work England. The panel had already concluded that service had been properly effected, and that the notice of hearing informed the social worker that the panel may proceed in her absence.

187. The panel had regard to the contents of the social worker's email of 6 January 2021: *"Please note that I will not be represented at this extended hearing. Unfortunately I am also unable to attend due to personal reasons. I am happy for this hearing to proceed in my absence"*. The panel also had regard to the telephone attendance note of today's date. Noting that the social worker had asked for the resumed hearing to proceed in her absence and for the hearing to conclude "this week", the panel determined that the social worker had voluntarily absented herself from the resumed hearing and that it was unlikely an adjournment would secure her attendance at a future date. The panel considered that it was in the interests of justice for the resumed proceedings to be concluded expeditiously. Accordingly the panel exercised its discretion to proceed in the social worker's absence.

Decision on sanction

188. Mr Harris, on behalf of Social Work England, submitted that the panel's findings were so serious that the social worker should be removed from the register. He referred to

the Sanctions Guidance and highlighted to the panel the paragraphs on dishonesty. Mr Harris submitted that this case involved repeated dishonesty over a period of time where the social worker had appeared before her regulator in April 2017, also for a dishonesty allegation, that was found proved and which she went on to conceal from her then employer. He referred the panel to its findings on misconduct and impairment and submitted that the social worker had limited insight and insufficient remediation.

189. In the absence of the social worker Mr Harris highlighted to the panel a number of mitigating factors that the social worker may have put forward had she attended the hearing. He submitted that Social Work England did not necessarily agree with these factors but that these were put forward in fairness to the social worker.

190. Mr Harris referred the panel to relevant passages of Sir Thomas Bingham's MR judgment in the case of *Bolton v Law Society* [1994] 1 WLR 512. He submitted that in all of the circumstances a removal order was the only sanction that would protect the public and uphold the public interest.

191. The legal adviser informed the panel that Mr Harris's written submissions on sanction had been emailed to the social worker by Social Work England. She advised that, in accordance with Rule 35(c)(i) it was appropriate for the panel to have regard to the social worker's fitness to practise history at this stage and referred the panel to the determination of the HCPC dated April 2017 in the bundle and the most recent substantive review of that decision dated 11 February 2020 which had been provided to the panel this morning.

192. The legal adviser advised the panel to consider the aggravating and/or mitigating factors in this case, and to approach the range of available sanctions in ascending order of seriousness. She advised that the purpose of sanction is not to be punitive, but is to protect the public, maintain public confidence in the profession and declare and uphold proper standards of conduct and behaviour. She advised the panel to act proportionately, balancing the interests of the social worker with those of the public. She drew the attention of the panel to the relevant sections of the Sanctions Guidance, specifically the section on dishonesty and advised that that for professionals, a finding

of dishonesty lies at the top end of the spectrum, and that in cases of proven dishonesty, the balance can be expected to fall down on the side of maintaining public confidence in the profession by a severe sanction. However, the panel should bear in mind that there are different forms, and different degrees, of dishonesty, and that the social worker's conduct needs to be considered in an appropriately nuanced way, with consideration of the following factors, and any other factors deemed relevant by the panel:

- whether the dishonest conduct took the form of a single act, or occurred on multiple occasions
- the nature, duration and range of the dishonesty
- whether the social worker took a passive or active role in the dishonest conduct
- early admissions of dishonesty
- insight and remorse;
- remediation.

193. The legal adviser asked that the panel takes into account the social worker's submissions in response to its findings on facts, grounds and impairment, as well as the social worker's earlier submissions submitted in these proceedings. The legal adviser referred the panel to the four testimonials previously considered, highlighting that the social worker has since provided further submissions regarding these testimonials following the panel's determination on grounds and impairment.

194. In considering which, if any, sanction to impose the panel had regard to the Sanctions Guidance (November 2019) and the advice of the legal adviser along with Mr Harris's and the social worker's submissions. These included the recent submissions from the social worker received on the 28 January 2021.

195. The panel reminded itself that the purpose of imposing a sanction was not to punish the social worker, but to protect the public and the wider public interest. The panel ensured that it acted proportionately, and in particular it sought to balance the interests of the public with those of the social worker to impose the sanction which was the least restrictive in the circumstances commensurate with its role of public protection.

196. The Panel considered that the aggravating features included the following:

- The misconduct took place over a significant period of time and involved serious and repeated breaches of the HCPC's Code of Conduct
- The misconduct took place in the course of the social worker's professional duties and involved breaches of trust towards her employer and prospective employer
- The social worker's dishonesty involved misrepresentation of her disciplinary history on application forms and dishonesty to her line manager, such conduct requiring planning and pre-meditation
- There was limited insight from the social worker which raised concerns as to a risk of repetition
- There was previous fitness to practise history which involved a finding of dishonesty and impairment by the social worker's former regulator.

197. The panel considered the following as mitigating features:

- The misconduct took place over 3 years ago
- The misconduct has not been repeated
- The social worker has engaged with the regulator throughout these proceedings via written correspondence
- The social worker made some generalised admissions
- The social worker acknowledged that she had fallen short of the standards expected of a social worker, namely that social workers are expected to be trustworthy and be honest, and the impact of her conduct on the wider profession
- The social worker had demonstrated remorse
- The social worker was a competent social worker as evidenced by her line manager, Ms KB, and also in Ms CS's written notes (see paragraphs 147 to 148 above)

198. The panel concluded that, in view of the seriousness of the misconduct, to take no further action, or to impose an advice or warning order, were clearly insufficient,

would not address the risk of repetition the panel had identified and would not be sufficient to maintain public confidence in the profession.

199. The panel concluded that a conditions of practice order would be insufficient to meet the seriousness of the misconduct. The allegation concerned dishonest conduct by the social worker which was repeated, concealed and sustained over a period of time. The panel concluded that conditions could not be formulated to address the social worker's dishonesty and would also not address the gravity of the social worker's conduct with respect to the wider public interest concerns identified in the panel's decision on misconduct and impairment.

200. The panel next considered a suspension order. The panel took into account the aggravating features of the case. It had regard to paragraphs 106 to 109 of the Sanctions Guidance, specifically paragraph 109 which stated "Evidence of professional competence cannot mitigate serious or persistent dishonesty. Such conduct is highly damaging to public trust in social workers and is therefore usually likely to warrant suspension or removal from the register". The panel considered the social worker's repeated and concealed dishonesty in failing to accurately declare her disciplinary history to prospective employers and her ongoing dishonesty in not informing Ms KB, her line manager, of the HCPC proceedings was pre-meditated and calculating. The social worker's conduct was so serious that the need to uphold the reputation of the profession in the eyes of the public required, at least, a suspension order to be imposed in this case.

201. In considering whether a suspension order would be an adequate sanction in this case, the panel carefully evaluated the mitigating circumstances and the social worker's submissions. The panel considered that the time which had elapsed since the misconduct and the absence of repetition of misconduct were minor factors when weighed against the seriousness of the social worker's prolonged and repeated dishonest conduct. The panel recognised that the social worker expressed remorse and acknowledged that she was a competent Social Worker who did not pose a risk to service users. However, in her written submissions the social worker had sought, at times, to minimise the seriousness of her actions. The panel had previously noted that

the social worker had opportunities to admit her dishonesty to her employer, but she did not. Notwithstanding that there is some mitigation, the panel decided that the mitigating factors carried little weight when they were balanced against the aggravating factors. They did not indicate that a suspension order was appropriate or proportionate.

202. For those reasons the panel concluded that a removal order was the only sufficient, proportionate and appropriate sanction to impose. The aggravating features of this case placed it at the highest end of the sanctions spectrum. The Social Work profession requires a high degree of trust and employers must be able to trust the accuracy of information provided by social workers. Vulnerable people rely on a Social Worker's honesty and integrity in making decisions that affect their lives. Repeated dishonesty, especially after a previous finding of dishonesty by a regulatory body, is likely to threaten public confidence in the proper discharge by a social worker of their responsibilities. It was the judgment of the panel that the conduct found proved was fundamentally incompatible with the social worker remaining on the Register. The panel also considered that a removal order would maintain the reputation of the profession and was required to declare and uphold proper standards of behaviour of the Social Work profession.

203. The panel's view was that any financial and reputational damage which may be caused to the social worker by a sanction of removal would be outweighed by the need to protect the public and the wider public interest considerations.

204. In conclusion, the panel decided that the appropriate and proportionate order is one of removal from the register.

Interim order

205. Mr Harris applied for an interim order of suspension. He submitted that an interim order was necessary in order to protect the public by preventing the social worker from practising during any appeal period.

206. The legal adviser reminded the panel of her previous advice in respect of proceeding in absence. She advised that in accordance with Paragraph 11 of Schedule 2 of The

Social Work Regulations 2018 the panel may make any interim order if it considers is necessary for the protection of the public or in the best interests of the social worker. The protection of the public included the public interest. She also advised that the order can only be made if it is necessary and must not be merely desirable. She reminded the panel of the over-arching objective and that it must consider first whether an interim conditions of practice order would be sufficient. She confirmed that there was no current interim order in place in relation to these proceedings, but that the panel was now aware that the social worker is subject to a substantive conditions of practice order which is due to be reviewed by an independent panel before its expiry in February 2021.

207. The panel first considered whether to proceed in the social worker's absence, and concluded it would for the same reasons mentioned above. The panel next considered whether an interim order was necessary to protect the public. For the reasons set out in its substantive decision the panel was satisfied that an interim order was required in the wider public interest in that an ordinary member of the public would be shocked to learn that the social worker was entitled to practise if an order was not made. Accordingly, the panel was satisfied that an interim order was required for the protection of the public. The panel considered whether an interim conditions of practice order would be sufficient in the circumstances, but concluded, for the same reasons as set out in its substantive decision, that such an order would be insufficient in the circumstances of this case.

208. For the reasons above, the panel concluded that an interim order of suspension was necessary for the protection of the public and was also required in the public interest.

209. Accordingly the panel made an interim order of suspension under Paragraph 11 of Schedule 2 of The Social Workers Regulations 2018. The length of this order is dictated by Paragraph 11 (3) (b) which states that where there is no appeal against the final order, the order will expire when the period for appealing expires, and where there is an appeal against the final order, the order expires when the appeal is withdrawn or otherwise finally disposed of.

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.