

Social worker: Tracy Clark

Registration number: SW87715

Fitness to Practise

Final Hearing

Dates of hearing: 19 August 2024 to 22 August 2024

Hearing venue: Remote hearing

Hearing outcome:
Fitness to practise impaired, removal order

Interim order:
Interim suspension order (18 months)

Introduction and attendees:

1. This is a hearing held under Part 5 of The Social Workers Regulations 2018 (as amended) (“the regulations”).
2. Ms Clark did not attend and was not represented.
3. Social Work England was represented by Mr Adrian Harris case presenter from Capsticks LLP.

Adjudicators	Role
Andrew Skelton	Chair
Jacqui Smith	Social worker adjudicator
Cherrylene Henry-Leach	Lay adjudicator

Hannah Granger	Hearings officer
Andrew Brown	Hearings support officer
Emma Boothroyd	Legal adviser

Service of notice:

4. Ms Clark did not attend and was not represented. The panel was informed by Mr Harris that notice of this hearing was sent to Ms Clark via recorded delivery and email to her address on Social Work Register (“the Register”) on the 4 July 2024. Mr Harris submitted that the notice of this hearing had been duly served.
5. The panel had careful regard to the documents contained in the final hearing service bundle as follows:
 - A copy of the notice of the final hearing dated 4 July 2024 and addressed to Ms Clark at her postal and email address as they appear on the Social Work England Register;
 - A copy of a signed Statement of Service, on behalf of Social Work England, confirming that on 4 July 2024 the writer, a Trainee Solicitor at Capsticks sent the Notice of Hearing special delivery to Ms Clark at her registered address and that a copy of the documents were also sent via email to Ms Clark’s registered email address;
 - A copy of the Royal Mail Track and Trace Document indicating that the documents were delivered on the 5 July 2024;
 - Email from Ms Clark dated 2 August 2024 indicating that she was not in a position to attend the final hearing and providing her written submissions.
6. The panel accepted the advice of the legal adviser in relation to service of notice.

7. Having had regard to Rule 14, 15 and 44 of the Fitness to Practise Rules 2019 (“the Rules”) and all the information before it in relation to the service of notice, the panel was satisfied that notice of this hearing had been served on Ms Clark in accordance with the Rules.

Proceeding in the absence of the social worker:

8. The panel heard the submissions of Mr Harris on behalf of Social Work England. Mr Harris submitted that notice of this hearing had been duly served, no application for an adjournment had been made by Ms Clark and as such there was no guarantee that adjourning today’s proceedings would secure her attendance. Mr Harris further submitted that Ms Clark had expressed her view on more than one occasion in emails to Social Work England that she did not intend to attend the hearing. Mr Harris submitted that Ms Clark had been provided with the opportunity to engage in these proceedings and she had produced written submissions for the panel to consider. Mr Harris submitted that there are 3 witnesses who are waiting to provide evidence. Mr Harris submitted that it was in the interests of justice to proceed to an 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 44 of the Rules and the cases of *R v Jones [2002] UKHL 5*; *General Medical Council v Adeogba [2016] EWCA Civ 162*. The panel also took into account Social Work England guidance ‘Service of notices and proceeding in the absence of the social worker’.
10. The panel considered all the information before it, together with the submissions made by Mr Harris on behalf of Social Work England. The panel noted that Ms Clark had been sent notice of today’s hearing by both email and post and had confirmed she was aware of the hearing and would not be attending.
11. The panel therefore concluded that Ms Clark had chosen voluntarily to absent herself. The panel had no reason to believe that an adjournment would result in Ms Clark’s attendance. The panel were satisfied that Ms Clark had clearly expressed her choice not to attend and an adjournment would serve no useful purpose.
12. The panel noted that there may be a disadvantage to Ms Clark in proceeding but this was mitigated by the fact that Ms Clark had provided written submissions for the panel to consider. Having weighed the interests of Ms Clark with those of Social Work England and balancing the public interest in an expeditious disposal of this hearing, the panel determined to proceed in Ms Clark’s absence.

Preliminary Matters:

Application to adduce the witness evidence of Person B

13. At the outset of the hearing the panel was informed that Person B was not able to attend to give evidence because of personal circumstances. Mr Harris submitted that in these circumstances he wished to apply for her statement to be admitted as hearsay. He referred the panel to his written skeleton argument which outlined his submissions. In summary he submitted that it was fair for the statement to be admitted into evidence as there was a good reason for the absence of the witness, and her evidence was not the sole and decisive evidence in relation to the charges as Social Work England relied on Ms Hodgson and Ms Meikle and Person A in relation to these charges.
14. The social worker had been notified on 31 July 2024 of the likelihood of this application by Social Work England. In her response dated 2 August 2024 she stated, *"I have no objection to Person B...not giving verbal evidence unless it is required."*
15. The panel accepted the advice of the Legal adviser. The panel bore in mind that under the Civil Evidence Act 1995, evidence should not be excluded solely on the grounds that it was hearsay. It also had regard to Rule 32 (b) (vii) of The Fitness to Practise Rules 2019 (as amended). It considered the approach as set out in the cases of R(Bonhoeffer) v GMC [2011] EWHC 1585 (Admin) and Thorneycroft v NMC [2014] EWHC 1565 (Admin).
16. The panel noted the contents of the witness statement of Person B and the representations of both parties. The panel took account of the reasons why the witness was unable to attend and weighed this into the balance with the need to protect the public and the social worker's right to a fair hearing.
17. The panel considered that admission of this evidence would be fair in the circumstances. Person B's evidence was relevant evidence about what had happened during the social worker's involvement with Family 1 and could be corroborated and verified by reference to the contemporaneous records and the oral evidence of other witnesses.
18. Further, the panel considered that it was not the sole and decisive evidence on the allegations given the accounts of the other witnesses and the documentation before the panel. The panel noted that it had received submissions from the social worker but she had not attended to cross examine the witness. The panel considered that there was a good reason for the witnesses non-attendance which was supported by evidence.
19. The panel considered it was in the public interest to proceed expeditiously and that the evidence could be admitted without unfairness. It did not consider that an adjournment was proportionate or appropriate. The panel also noted the further protection available in dealing with this evidence, in that it would have the benefit of ongoing legal advice in respect of the evaluation of hearsay evidence.

20. Therefore, the panel determined to allow the application to admit the statement of Person B into evidence.

Admissions:

21. Rule 32c(i)(aa) Fitness to Practise Rules 2019 (as amended) (the 'Rules') states:

"Where facts have been admitted by the social worker, the adjudicators or regulator shall find those facts proved."

22. Although the submissions of the Social Worker could potentially be considered as partial admissions to some of the allegations it was not clear whether these statements were unequivocal admissions given her explanation of mitigating circumstances. In these circumstances the panel considered that it would proceed on the basis that Ms Clark denied all of the allegations.
23. In line with Rule 32c(i)(a) of the Rules, the panel proceeded to determine all the disputed facts.

Background:

24. On 14 February 2022, Social Work England received a referral from Dawn Hodgson, on behalf of North Tyneside Council ("the Council") regarding the social worker's conduct. The social worker began working at the Council on 8 June 2021 as an agency social worker within the Child in Need Team. Her responsibilities included all aspects of social work from pre-birth to adulthood. She was required to prepare and implement child in need plans and child protection plans and to undertake direct work with families and other agencies in accordance with those plans and other statutory responsibilities. The social worker was allocated a mix of families with around twenty-six children on her caseload which involved some sibling groups.
25. Ms Candice Meikle was the social worker's line manager and undertook supervisions sessions with her on the 16 June 2021, 16 August 2021, 13 September 2021 and 16 November 2021. During the second supervision session on 16 August 2021 it was discussed with the social worker that visits were not being conducted within timescales and that the social worker was struggling to fit everything in as she was currently working 3 days per week to accommodate family responsibilities. In addition, the social worker raised that there were difficulties with recording things on the system.
26. In September 2021 the social worker returned to working 5 days per week following a period of sickness. In October 2021 the social worker indicated that she intended to leave the Council as she needed to focus on her husband's health. She was initially due to leave on 5 November 2021, however, it was agreed that the social worker would continue to work 2 days per week with a reduced caseload to conclude some

outstanding work particularly in relation to Family 1. The social worker left the Council on 20 December 2021.

27. Following the social worker's departure concerns were raised by Family 1 about her visits to the family and the frequency of statutory meetings and visits. Person B, the midwife for Family 1 also contacted Ms Meikle following the social worker's departure and raised her concerns that meetings had not taken place as required. The mother of Family 1 told Candice Meikle that they had not seen the social worker since 1 November 2021 and she had not been to the house to see the children. The grandmother of Family 1, (Person A) told Ms Meikle that there had been no support by the social worker and the social worker had only visited her home on two occasions to see the children.
28. Ms Meikle identified two recordings of home visits by the social worker to the mother of Family 1 on the 9 and 18 November 2021 which Family 1 said did not take place.
29. The Council conducted an internal investigation into their concerns about the social worker's conduct. As part of the internal investigation Dawn Hodgson on behalf of the Council carried out an investigation and identified a number of statutory visits that had allegedly not taken place within the required timescales for several children. Further, the investigation identified gaps in the social worker's recording on the Council record system "Liquid Logic" where details of meetings undertaken were not recorded. In addition, the investigation identified that there was no evidence that child in need meetings, core group meetings and care team meetings that were required for a number of children had been carried out.

Allegations:

30. Whilst registered as a social worker between 8 June 2021 and 17 December 2021 you:
 - 1 Failed to complete case work required of you, in that you:
 - a. Did not maintain complete, accurate and timely records in respect of one or more cases set out in Schedule A;
 - b. Did not hold meetings, including Child in Need, Core Group and Care Team Meetings, in respect of the cases set out in Schedule B;
 - c. Did not complete meeting minutes in respect of one or more cases as set out in Schedule C;
 - 2 Failed to appropriately assess and/or manage risk in that you:
 - a. Did not record or undertake visits, including statutory visits, within appropriate timescales and/or at all in respect of one or more cases set out in Schedule D;
 - b. Did not implement a child in need plan in relation to Child H and Child G;
 - 3 You falsely recorded that visits and/or meetings had taken place in relation to Family 1, when this was not the case.

- 4 Your actions at paragraph 3 above were dishonest.

The matters above amount to the statutory ground of misconduct.

Your fitness to practise is impaired by reason of misconduct.

Schedule A (case records)

- Child A
- Child B

Schedule B (meetings)

- Family 1

Schedule C (meeting minutes)

- Child A
- Child B

Schedule D (visits)(As amended)

- Child I / Family 1
- Child B
- Child D
- Child E
- Child F1
- Child F2
- Child G
- Child H

Summary of evidence:

31. The panel was provided with a written statement of case dated 9 May 2024 and updated on 23 July 2024 and 7 August 2024 prepared by Capsticks on behalf of Social Work England which set out the allegations and the evidence relied upon in support of the allegation.
32. The panel received written statements together with supporting exhibits from:
- Dawn Hodgson/Howell – Service Manager and investigating officer for the Council;
 - Candice Meikle – Team Manager Child in Need Team at the Council and Ms Clark's line manager;
 - Person A – Grandmother of Family 1;
 - Person B – Midwife for mother in Family 1.

33. The panel heard oral evidence from Ms Hodgson/Howell. She told the panel the expectations of a social worker regarding visits and recordings were set out in the guidelines document and would have been made clear to Ms Clark on her induction. Ms Howell told the panel that depending on the risk, some children would be required to be seen sooner than every 4 weeks but that 4 weeks was the maximum to ensure children were safe and that their progress in line with any plan could be monitored.
34. The panel also heard oral evidence from Ms Meikle who told the panel that she conducted supervision sessions with Ms Clark and was made aware that Ms Clark was struggling with [PRIVATE]. Ms Meikle told the panel that reduced working days were agreed with Ms Clark to support her. Ms Meikle said that during supervision sessions and monitoring of Ms Clark's work she understood that Ms Clark was struggling to record visits but she was not made aware that the visits hadn't been undertaken and thought that it was a recording issue. Ms Meikle told the panel that on reflection, if she had been aware that visits were not being undertaken she would have intervened. Ms Meikle acknowledged that Ms Clark had told her of difficulties recording on Liquid Logic but that she had gone through with her how to put an assessment plan on the system. Ms Meikle told the panel that Ms Clark had an induction in relation to the system and she would be required to undertake tasks in a training environment before she could access the system.
35. The panel also heard oral evidence from Person A the grandmother of Family 1. She told the panel that she only saw the social worker at her home on two occasions. She told the panel that meetings were cancelled and that direct work with the children was not undertaken by the social worker. Person A told the panel that they felt unsupported by the social worker because visits were not being carried out. Person A told the panel that during telephone calls with her daughter she was told that the social worker was not visiting her either and that parenting assessments were not completed because the social worker had not visited. Person A told the panel that she complained to the council and she found it very difficult to contact anyone for support.

Submissions

36. Mr Harris on behalf of Social Work England opened the case in detail and highlighted to the panel the relevant evidence. In his closing submissions, Mr Harris invited the panel to find the facts proved in their entirety, on the basis of the evidence presented. In summary he submitted that the evidence was credible and reliable from a number of sources that statutory visits and meetings had not taken place in relation to a number of families. He further submitted that the evidence in relation to Family 1 had a ring of truth about it and was part of a pattern of behaviour that Ms Clark was not visiting families as required and was not undertaking meetings or implementing plans. Mr Harris invited the panel to find that it was more likely than not that Family 1 were correct and there had been no visits by Ms Clark in November 2021 and the recordings were a falsification.

37. In her responses to Social Work England the social worker accepted that she was struggling and had not recorded visits within the correct timescales. The social worker accepted that she had not completed all of the work required of her and stated that she did her best to keep up with all the work that was allocated to her. The social worker denied any dishonesty and stated that although she may have made mistakes with her records she did undertake the visits and that she had not recorded visits which had not taken place.

Application to amend the allegations

38. During the panel deliberations it was clear that the cases set out as anonymised in schedule D did not match the evidence of Candice Meikle. There was reference to child [PRIVATE] in the statement of case but there was no evidence in relation to this child. Further [PRIVATE] and [PRIVATE] were referred to under the same anonymised reference. Social Work England were invited to deal with these discrepancies in order to make matters clear to the panel.

39. Mr Harris on behalf of Social Work England produced an amended Schedule D to remove the reference to [PRIVATE] and to make each child clear. He invited the panel to amend the allegation to incorporate the revised Schedule D and submitted that it would cause no injustice to the social worker as she was already notified of the individuals involved in the case and was proposed to make the allegations clear. He submitted that there would be no unfairness and the panel should bear in mind its responsibilities to protect the public.

40. The panel accepted the advice of the legal adviser. She advised the panel that it was permitted to make amendment if it could be made without injustice.

41. The panel was satisfied that the amendment could be made without injustice. It was satisfied that the amendment would not change the nature of the charges and indeed removed reference to a child for which no evidence had been presented. The panel noted that the extent and detail of the cases had been disclosed to the social worker within the source documentation and she was familiar with the cases. In these circumstances the panel considered the amendment could be made without injustice and served to provide clarity on the children involved.

Finding and reasons on facts

42. The panel accepted the advice of the legal adviser, who reminded the panel that it is for Social Work England to prove the facts on the balance of probabilities. The panel should consider each of the allegations separately and consider whether it is more likely than not that the facts are as alleged.

1 Failed to complete case work required of you, in that you:

- a) Did not maintain complete, accurate and timely records in respect of one or more cases set out in Schedule A;

43. The panel finds this paragraph of the allegation proved in its entirety in respect of all the cases as set out in Schedule A. The panel accepted the evidence contained within the statements and attached exhibits of Dawn Howell and Candice Meikle and Person A together with their oral evidence. The panel also had regard to the admission made by the social worker in her statement of 2 August 2024 where she stated, “I fully accept allegation 1. I believe I have reported my difficulties in accessing the system.” The panel did not accept that the social worker’s failings could be explained by difficulties with the system as it noted that she had made full and detailed records in relation to other cases, particularly in relation to Family 1 on the 9 and 18 November 2021.

44. The panel noted from the records that in relation to Child A the social worker had made a brief entry “Statutory CP Visit” with no further detail on 21 June and 30 June 2021. A further entry on 3 November 2021 made reference to Core Group Meeting minutes but these were not recorded and have not been produced.

45. In relation to Child B the panel noted that there are no recordings for any visits to this child during the five months that the social worker was allocated the case, despite visits being required at least every 4 weeks. In these circumstances the panel was satisfied that the social worker had not maintained complete, accurate or timely records in respect of these cases.

b) Did not hold meetings, including Child in Need, Core Group and Care Team Meetings, in respect of the cases set out in Schedule B;

46. The panel noted that the social worker admitted this allegation and it was clear to the panel from the contemporaneous records and the witness evidence of Candice Meikle, Person A and Person B that a number of required meetings relating to Family 1 were cancelled and were not rearranged. The panel noted from the diary entries and the evidence of Person A that the core group meeting scheduled for 28 October 2021 took place on 16 November 2021 and the meeting scheduled for 9 December 2021 was cancelled. The care team meetings arranged for 6 and 13 December 2021 were cancelled by the social worker. The LAC review arranged for 3 September 2021 took place in the social workers absence and the next review arranged for 20 December 2021 was cancelled by the social worker.

47. In these circumstances the panel was satisfied that there were regular meetings that it was the responsibility of the social worker to conduct and facilitate as part of her role that did not take place as required and were cancelled and not re-arranged.

c Did not complete meeting minutes in respect of one or more cases as set out in Schedule C;

48. The panel found this paragraph of the allegation proved. The panel noted the social workers admission in relation to this allegation. The panel noted that it was discussed within supervision on 16 November 2021 that there were gaps in the social worker's recording of minutes. The social worker attributed this to typing up the minutes during the meetings but not yet uploading them to the system. The panel considered the case notes in relation to Child A and noted that there were no minutes of the Core Group meetings recorded for the 28 September 2021 and 3 November 2021. For Child B the panel noted there were no notes for a CIN review. In these circumstances the panel was satisfied that the social worker had a responsibility to complete recordings for meetings and had failed to do so.

2 Failed to appropriately assess and/or manage risk in that you:

a Did not record or undertake visits, including statutory visits, within appropriate timescales and/or at all in respect of one or more cases set out in Schedule D;

49. The panel noted the admissions of the social worker in relation to this paragraph of the allegation. In her written submissions dated 2 August 2024 she stated, *"I accept allegation 2 in that I did not record in the statutory timescales some of the visits I undertook. I also failed to implement a CiN plan however (no excuse) I could not navigate the system and [PRIVATE]"*.

50. The panel considered each of the cases as set out in the amended Schedule D. It had regard to the written evidence of Candice Meikle who set out within her exhibits a list of cases allocated to the social worker which were showing as having visits outstanding. The panel noted that this list correlated with the cases within schedule D and there was nothing within the case recordings which confirmed that visits had been carried out. The panel was unable to conclude whether some visits had been carried out and not recorded or had not been carried out at all. However, the panel was satisfied that the social worker was aware of her obligations to both carry out and record visits within appropriate timescales to keep children safe, ensure their needs are being met and inform others about any risk. The panel was satisfied that as an experienced social worker Ms Clark was aware of her obligations in this regard. Further the panel noted that these timescales were also contained within the Council's guidelines and overdue visit reminders were also generated on the Liquid Logic system. The panel noted the difficulties expressed by the social worker but considered that there was evidence that Ms Clark did record entries on the system and protected time was arranged for Ms Clark to undertake any missing recordings. In these circumstances the panel found this paragraph of the allegation proved.

b) Did not implement a child in need plan in relation to Child H and Child G;

51. The panel noted the admission of the social worker in relation to this paragraph of the allegation as noted above. The panel considered that as an experienced social worker Ms Clark would have been aware of the importance of Child in Need (CiN) plans to manage risk and support needs. The panel noted that Ms Meikle brought this family to the attention of the social worker and explained that a CiN plan was required and told her in an email that a review was scheduled for 18 November 2021. The case notes show that no CiN was prepared by the social worker and this work was completed by another social worker. In these circumstances the panel finds this allegation proved.

3 You falsely recorded that visits and/or meetings had taken place in relation to Family 1, when this was not the case.

52. The panel considered this allegation very carefully and noted that Social Work England set out in its statement of case that this related to the recordings in the case notes for Family 1 dated 9 November 2021 and 18 November 2021. Those recordings set out that the social worker had visited the mother of Family 1 at her home on those dates for the purposes of carrying out a statutory child protection visit and parenting assessment work. When Candice Meikle spoke with Family 1 in December 2021, they told her that they had not seen the social worker since 1 November 2021.

53. The mother of Family 1 did not give any evidence to the panel and her hearsay account is contained within the statement of Candice Meikle. Person A also said within her witness statement that her daughter informed her that visits did not take place. However, Person A acknowledged that these visits would have been arranged with her daughter and so she was unable to be specific regarding the dates. In her oral evidence Person A said that the social worker was supposed to be conducting a parenting assessment and her daughter told her that all the sessions did not take place.

54. The panel considered that this allegation was based entirely on the hearsay account of the mother of Family 1. The panel also took into account that it had not heard directly from the mother of Family 1 and she had not been asked about the detail of these visits and whether any of the matters as set out in the recordings were discussed.

55. The panel noted that the detail in the case recordings was specific and appeared to be related to the issues in the case. The panel considered that this level of detail was likely to have been gained from a visit with Family 1. It was not in dispute that the social worker did visit members of Family 1 on occasions and had observed the children at family time and at school. The evidence of Person A was that the social worker did visit her home on two occasions. The panel noted that Ms Clark was an experienced social worker with an unblemished record and it considered that it was unlikely that she would have fabricated extensive details of two visits and inserted them into case recordings if the meetings had not taken place at all. The panel noted the context of this case was complex and within the court arena with multiple parties involved. It seemed to the

panel more likely than not that the records were an accurate reflection of meetings that had taken place.

56. There was nothing before the panel that suggested that the social worker attempted to mislead anyone regarding her interaction with Family 1 at any stage, nor that she was seeking to cover up any shortcomings with regard to her work. The panel noted that the social worker acknowledged within the supervision session on 16 November 2021 that the direct work with the children of Family 1 had not been completed. The panel also noted that within the chronology of the case for Family 1 it was recorded that a session of direct work with the children was inserted into the social workers diary for 18 November 2021.
57. The panel considered that it should look for cogent evidence to support an allegation that the social worker had dishonestly fabricated records of two visits that had not taken place. Aside from the comments made to others, by the mother of Family 1, there was no other evidence that the visits had not taken place. In the view of the panel, this was insufficient to enable it to conclude that it was more likely than not that Ms Clark fabricated the records to suggest that the visits were undertaken when they were not. The panel noted that Ms Clark had consistently stated that she was not dishonest and whilst she accepted she may have made an error in her recordings she was never dishonest about whether visits had taken place. The panel could identify no reason to doubt the records which appeared to be genuine, contemporaneous and relevant.
58. In these circumstances, the panel was not satisfied that Social Work England had discharged its burden of proving this paragraph of the allegation.
59. It follows that having found Paragraph 3 of the allegation not proved, the panel is not required to consider paragraph 4.

Finding and reasons on grounds

Summary of Submissions – Grounds and Impairment:

60. Mr Harris submitted that the facts found proved amounted to misconduct and that Ms Clark's fitness to practise is currently impaired. He directed the panel to the breaches of the Professional Standards for Social Workers (2019) in particular Paragraphs 2.1, 3.2, 3.8, 3.9, 3.11 and 3.12. He submitted that although the panel had not found that Ms Clark was dishonest, standard 2.1 was still applicable in so far as her conduct could be described as unreliable.
61. Mr Harris submitted that the misconduct was serious as Ms Clark failed to visit or record visits to vulnerable children. Her misconduct placed those children at risk of harm. In addition her failure to complete the work led to delays and loss of information which impacted on families and colleagues as work had to be repeated. In relation to Family 1, court proceedings were delayed and work was described as unreliable and had to be re-started.

62. He further submitted that although Ms Clark has accepted her current fitness to practise is impaired this was a matter for the panel's independent judgement. He submitted that Ms Clark had not demonstrated any insight or remediation and had not provided the panel with any reassurance that the misconduct would not be repeated. Mr Harris reminded the panel that the misconduct took place when Ms Clark was subject to support and assistance and that she was a very experienced social worker. Mr Harris submitted that a finding of impaired fitness to practise was necessary to protect the public and wider public interest. He submitted that the public would be shocked if a finding were not made in these circumstances given the serious risk of harm to vulnerable families.

Findings and Reasons - Grounds and Impairment:

63. The panel accepted the advice of the legal adviser that it should keep at the forefront of its consideration the overarching objectives when exercising its functions. It must consider whether Ms Clark's fitness to practise is currently impaired by reason of misconduct. To do so, it must first consider whether the proved allegations amounted to misconduct, whether that misconduct was serious and, if so, whether that leads to a finding of current impairment. Neither party bears the burden of proof. When considering impairment, the panel should consider whether the misconduct is remediable and, if so, whether it has been remedied and what insight has been demonstrated by Ms Clark. The panel must also determine whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of current impairment were not made.

64. The panel noted that "*misconduct*" in regulatory proceedings was defined by Lord Clyde in the case of *Roylance v General Medical Council* [2001] 1 AC 311 as follows:

"...._some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a practitioner in the particular circumstances."

65. The panel was satisfied that the conduct found proved breached the following Professional Standards 2019:

2.1 *Be open, honest, reliable and fair.*

3.2 *A social worker will use information from a range of appropriate sources, including supervision, to inform assessments, to analyse risk, and to make a professional decision.*

3.8 *Clarify where accountability lies for delegated work and fulfil that responsibility when it lies with me.*

3.9 *Make sure that relevant colleague and agencies are informed about identified risks and the outcomes and implications of assessments and decisions I make.*

3.11 *A social worker will maintain clear, accurate, legible and up to date records, documenting how they arrive at their decisions.*

3.12 *Use my assessment skills to respond quickly to dangerous situations and take any necessary protective action.*

66. The panel was satisfied that the proved allegations each constituted misconduct, as they amounted to significant failures to adhere to the standards expected of someone in Ms Clark's position. The panel has found that she failed to undertake work that was required of her, had failed to undertake visits, or record the outcome of visits which left vulnerable families at risk and had failed to discharge her core responsibilities to conduct visits within statutory timescales to keep people safe.
67. Further, the panel was satisfied that the misconduct was serious as Ms Clark had breached fundamental tenets of social work in relation to safeguarding vulnerable young people and ensuring that plans to meet their needs were monitored. Others taking over conduct of the cases would be unaware of what had taken place and unable to properly assess needs or actions required. This was all the more serious and concerning given the circumstances of Family 1 and in particular the evidence of Person A who stated she was reliant on Ms Clark to get the help she needed to care for the children and for the children to understand why they had been removed from their family home.
68. Further, the panel was satisfied that members of the public and profession would be shocked at Ms Clark's behaviour. Actions such as those found, breach trust between service users and the social work profession, which in turn negatively impacts upon service users' engagement with social workers and therefore hinders the assessment of need and risk. The public should be able to count on the reliability of social workers to carry out their responsibilities to keep them safe.
69. The panel considered that Ms Clark's conduct could be remediated with evidence of training and reflection. However, the panel considered that there was no evidence of remediation or meaningful insight. Ms Clark had undertaken some training as part of her fostering role but had not explained how this was relevant to her social work practice. Although Ms Clark told the panel she intended to leave social work, she had not provided any meaningful reflection on how her conduct impacted the families involved and how she would prevent any repetition of her misconduct. Ms Clark has not reflected on the impact of her conduct on public confidence in the social work profession.
70. The panel had regard to the very low level of remediation and insight. It also noted that this was a sustained course of conduct over a period of six months whilst the Council

had been attempting to support Ms Clark. The panel noted that Ms Clark was an experienced social worker with no previous regulatory concerns. The panel noted that Ms Clark has not been working as a social worker and as a result no recent evidence has been provided to show her current work performance. Having taken all of those matters into account, the panel was satisfied that there was a significant risk of repetition of the proved misconduct.

71. The panel found that Ms Clark's practice currently poses a risk to the public. Failure to adequately carry out required meetings or visits and not completing records to document the outcome has the consequence of vulnerable people not being protected and not obtaining the services they may need. A failure to undertake meetings and progress care plans risks harm to the public as it can delay service users getting the help they need and fails to manage ongoing risk in dynamic situations. Further this could result in a lack of information for other professionals and agencies and a deterioration of trust between social workers and service users.
72. Further, the panel considered that members of the public and the social work profession would be appalled by Ms Clark's actions. The public requires social workers to carry out their statutory responsibilities and act with diligence and reliability. Given that the serious misconduct related to a breach of fundamental tenets of social work, the panel was satisfied that professional standards would not be promoted and maintained by a finding that her fitness to practise is not currently impaired.
73. The panel therefore concluded that as a consequence of Ms Clark's serious misconduct, a finding of impaired fitness to practise is necessary to protect the public and to promote and maintain public confidence in the social work profession and proper professional standards.

Sanction

Summary of Submissions – Sanction:

74. Mr Harris, on behalf of Social Work England submitted that in light of the nature and extent of the misconduct, the appropriate sanction was one of removal from the social work register. He submitted that there was limited evidence of remediation before the panel and that Ms Clark had failed to demonstrate any insight into the harm and potential harm caused by her misconduct. He submitted that public trust would be diminished as a consequence of Ms Clark's actions. He drew the panel's attention to para 106 of the sanctions guidance and submitted that any sanction at the lower end would be inappropriate and would be insufficient to protect the public interest.
75. Mr Harris submitted that removal was the only appropriate and proportionate sanction in the light of Ms Clark's continued failure to remediate and her repeated stated intention to leave the profession. Mr Harris drew the panel's attention to paragraph 149 of the sanctions guidance and set out that this was a clear case in which a removal order was appropriate as there was clear evidence that the social worker was unwilling

to remediate. He argued that neither a conditions of practice order nor a suspension order in these circumstances would be appropriate.

Decision on sanction

76. The panel accepted the advice of the legal adviser who reminded it of the three limbs of the overarching objective when considering what, if any, sanction was appropriate. The panel was reminded to apply the principle of proportionality, balancing Ms Clark's interests with the public interest. The primary purpose of a sanction is to protect the public and not to be punitive, although a sanction may have a punitive effect. The panel considered the least restrictive sanction first and then went on to consider the sanctions in ascending order of severity. The panel had regard to the Social Work England sanctions guidance, published in December 2022.
77. The panel reminded itself of its determination in relation to misconduct and impairment and took into account all the evidence it had seen and heard.
78. In relation to aggravating features, the panel noted there was harm in respect of Family 1 and risk of harm for other service users and families. Not only did Ms Clark fail to discharge her responsibilities to visit children and their families regularly but she also failed to progress their needs because of her failure to arrange relevant meetings and record the outcomes. These failings were raised with Ms Clark in supervision and persisted for a period of 6 months, despite training and a period of support. The panel also took into account that Ms Clark has failed to demonstrate meaningful insight or remediation.
79. In relation to mitigating features, the panel took into account that Ms Clark was an experienced social worker and until these incidents there had been no concerns with Ms Clark's lengthy practice. The panel noted that Ms Clark was experiencing difficult personal circumstances and [PRIVATE], which she stated impacted on her performance. The panel noted that Ms Clark made some early admissions to the charges and accepted that her fitness to practise was impaired.
80. The panel considered that taking no action, or issuing advice or a warning, would not adequately reflect the serious nature of Ms Clark's misconduct and would not protect the public, maintain public confidence in the profession nor promote proper professional standards.
81. The panel next considered whether a conditions of practice order would be sufficient to protect the public and wider public interest. The panel noted in particular paragraph 85 of the Sanctions Guidance, which states:

"Conditions are most commonly applied in cases of lack of competence or ill health. They're less likely to be appropriate in cases of character, attitudinal or behavioural failings, or in cases raising wider public interest issues."

82. In light of Ms Clark's stated intention to retire from social work the panel did not consider that conditions were appropriate or workable. Further, the panel noted that the misconduct found proved encompassed breaches of fundamental tenets of the social work profession and involved multiple failures to safeguard vulnerable children. The panel considered these failures were attitudinal in nature and did not stem from a lack of experience or knowledge. The panel was satisfied that workable conditions could not be formulated which would adequately protect the public and conditions would not be sufficient to promote and maintain public confidence or proper professional standards.

83. The panel therefore considered whether Ms Clark should be subject to a suspension order or removal order. The panel again reminded itself that a sanction of removal should only be imposed if suspension would not adequately protect the public or wider public interest. It considered, in particular, paragraphs 137 and 138 of the Sanctions Guidance, which state:

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

- the concerns represent a serious breach of professional standards*
- the social worker has demonstrated some insight*
- there is evidence to suggest the social worker is willing and able to resolve or remediate their failings*

138. Suspension is likely to be unsuitable in circumstances where (both of the following):

- the social worker has not demonstrated any insight and remediation*
- there is limited evidence to suggest they are willing (or able) to resolve or remediate their failings."*

84. The panel considered that Ms Clark had demonstrated very limited insight and had not provided any evidence of meaningful remediation. The social worker has repeatedly stated that she has retired from social work and does not intend to return. The panel considered that there was no evidence that Ms Clark was willing to undertake any work to resolve or remediate her failings and in these circumstances it considered that suspension would not be appropriate.

85. Additionally, the panel was satisfied that a suspension order would not promote and maintain public confidence in the social work profession or proper professional standards in light of the serious falling short of the standards it has found proved and the harm caused to service users. Reasonable and knowledgeable members of the public and social work profession would be shocked and concerned if, in those circumstances, a social worker was not removed from the social work register,

especially in circumstances where the social worker had failed to demonstrate insight and remediation.

86. The panel was therefore satisfied that the only proportionate and appropriate sanction was one of removal from the social work register.

Interim order

87. In light of its findings on Sanction, the panel next considered an application by Mr Harris for an Interim Suspension Order to cover the appeal period before the Sanction becomes operative.

88. The panel next considered whether to impose an interim order. It was mindful of its earlier findings and decided that it would be wholly incompatible with those earlier findings and the imposition of a Removal Order to conclude that an Interim Suspension Order was not necessary for the protection of the public or otherwise in the public interest for the appeal period.

89. Accordingly, the panel concluded that an Interim Suspension Order should be imposed on public protection and public interest grounds. It determined that it is appropriate that the Interim Suspension Order be imposed for a period of 18 months to cover the appeal period. When the appeal period expires this Interim Order will come to an end unless there has been an application to appeal. If there is no appeal the Removal Order shall apply when the appeal period expires.

Right of Appeal

90. 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.

91. 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.

92. 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.

93. 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:

94. Under Paragraph 15(1), 15(2) and 15(3) of Schedule 2 of the regulations:

- 15(1) The regulator must review a suspension order or a conditions of practice order, before its expiry
- 15(2) The regulator may review a final order where new evidence relevant to the order has become available after the making of the order, or when requested to do so by the social worker
- 15(3) A request by the social worker under sub-paragraph (2) must be made within such period as the regulator determines in rules made under Regulation 25(5), and a final order does not have effect until after the expiry of that period

95. Under Rule 16(aa) of the rules a social worker requesting a review of a final order under Paragraph 15 of Schedule 2 must make the request within 28 days of the day on which they are notified of the order.

The Professional Standards Authority:

96. Please note that in accordance with section 29 of the National Health Service Reform and Health Care Professions Act 2002, a final decision made by Social Work England's panel of adjudicators can be referred by the Professional Standards Authority ("the PSA") to the High Court. The PSA can refer this decision to the High Court if it considers that the decision is not sufficient for the protection of the public. Further information about PSA appeals can be found on their website at:

<https://www.professionalstandards.org.uk/what-we-do/our-work-with-regulators/decisions-about-practitioners>.