

Social worker: Josephine Veronica
Tait

Registration number: SW68321

Fitness to practise

Final order review hearing:

Hearing venue: Remote hearing

Date of hearing: 19 February 2021

Order being reviewed: Suspension Order expiring 3 April 2021

Hearing outcome : Removal Order

Introduction and attendees

1. This is the third review of a Suspension Order initially imposed by a panel of the Conduct and Competence Committee of the Health and Care Professions Council (HCPC) on 6 September 2018. This review is conducted as an electronic virtual meeting and takes place in accordance with paragraphs 15(1)(a) to (c) of Schedule 2 of the Social Workers Regulations 2018 ('the Regulations' or 'Regulation' as appropriate).
2. Ms Josephine Veronica Tait, the social worker did not attend this review.
3. Social Work England was represented by Capsticks LLP and their written submissions were set out within the notice of hearing letter.

Adjudicators	Role
Karen McArthur	Chair
Beverley Blythe	Social Worker
Baljeet Basra	Lay Adjudicator

Joel Tweddell	Hearings Officer
Rosie Kirk	Hearing Support Officer
Valerie Paterson	Legal Adviser

Service:

4. The panel of adjudicators (the panel) had been provided with a copy of the service

bundle of papers by Social Work England evidencing that notice of this review was sent to Ms Tait by next day special delivery and by first class post to her address on the Social Work Register (the Register). A signed statement of service dated 10 February 2021 certifying service was contained in the service bundle. The notice of service included the date, time and place of this hearing, notes to Ms Tait explaining how to participate effectively including by written submissions; and that if she did not state by 4pm on 17 February 2021 that she would attend, the panel had a discretion to proceed as a meeting. The panel was invited to consider whether notice of this hearing had been duly served.

5. The panel accepted the advice of the legal adviser in relation to service of notice in Rules 16 and 17 (making provision for meetings instead of hearings), 44 and 45 of the Social Work England (Fitness to Practise) Rules 2019 (the Rules).

6. Having had regard to Rule 16 and all of the information before it in relation to the service of notice, the panel was satisfied that notice of this hearing had been served on Ms Tait in accordance with the Rules.

Proceeding in the absence of Ms Tait:

7. The panel noted that having initially, emailed Social Work England, indicating that she wished to seek an adjournment, Ms Tait subsequently clarified her position and that there was no application for an adjournment.

8. This is a mandatory review of a final order relating to a lack of competence that engages issues of public protection.

9. The panel accepted the advice of the legal adviser in relation to the factors it should take into account when considering proceeding in absence. This included reference to Rule 43 of the Rules and the cases of *R v Jones* [2003] UKPC; *General Medical Council v Adeogba* [2016] EWCA Civ 162.

10. The panel considered all of the information before it. The panel noted that Ms Tait had been sent notice of today's hearing and the panel was satisfied that she is aware of today's review.

11. The panel concluded that Ms Tait had chosen voluntarily to absent herself and had no reason to believe that an adjournment would result in Ms Tait's attendance or participation. Having weighed the interests of Ms Tait with those of Social Work England and the public interest in an expeditious disposal of this hearing, the panel concluded that it was appropriate to proceed in the absence of Ms Tait.

12. The panel had regard to the guidance issued by Social Work England in relation to remote meetings, and the government guidance in response to the current COVID 19 pandemic. In the notice to Ms Tait, she was advised that if she did not confirm her

attendance by 17 February 2021 the panel could determine to proceed by electronic meeting rather than a hearing. Ms Tait confirmed by email of 17 February 2021 that she did not want to attend the hearing. In all of the circumstances, the panel determined to proceed as an electronic meeting.

Review of the current order:

13. This final order review hearing falls under the Transitional and Savings Provisions (Social Workers) Regulations 2019 and as a result the review will be determined in accordance with Part 5 of the Regulations, Schedule 2 paragraph 15 of the Regulations and Social Work England's Fitness to Practise Rules.

14. This is the third review of a final suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee of the HCPC on 6 September 2018. The order was reviewed by HCPC on 30 August 2019 and a further Suspension Order was imposed for a period of 12 months beginning from the expiry of the then current order. On 20 August 2020, at the second review a further suspension order was imposed for a period of 6 months by Social Work England.

15. The current order is due to expire on 3 April 2021.

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

Allegation (found proved at the substantive hearing on 6 September 2018):

During the course of your employment as a Social Worker with Leicestershire County Council, you:

1. *Did not complete and/or upload case notes to IAS in a timely manner for:*
 - a. *Service User D, between 25 February 2016 and 25 April 2016;*
 - b. *Service User F, between 11 February 2016 and 26 April 2016;*
 - c. *[NOT PROVED];*
 - d. *[NOT PROVED];*
 - e. *[NOT PROVED];*
2. *Did not complete required Mental Capacity Act Assessments for:*

- a. Service User F, between 4 February 2016 and 26 April 2016;*
 - b. Service User R, between 25 February 2016 and 26 April 2016.*
- 3. Did not complete and or records assessments and/or reassessments for:*
 - a. Service User M, between 25 November 2015 and 26 April 2016;*
 - b. [NOT PROVED];*
 - c. Service User K, between 17 November 2015 and 26 April 2016;*
 - d. [NOT PROVED];*
 - e. Service User V, between 9 February 2016 and 18 April 2016;*
 - f. Service User P, between 12 April 2016 and 25 April 2016;*
 - g. [NOT PROVED];*
- 4. [NOT PROVED];*
- 5. Provided delayed and or inaccurate information to service users and their family regarding funding of services and or care and or placements in respect of*
 - a. Service User W;*
 - b. [NOT PROVED];*
 - c. Service User X;*
 - d. [NOT PROVED];*
 - e. Service User C.*
- 6. Did not follow instructions and guidance provided by managers in relation to:*
 - a. Service User L;*
 - b. Service User X.*

7. *Did not raise concerns with managers in relation to:*
 - a. *Service User I;*
 - b. *Service User L;*
8. *[NOT PROVED];*
9. *Delayed in arranging:*
 - a. *Home Care Services for Service User G between 16 February 2016 and 8 April 2016;*
 - b. *[NOT PROVED];*
 - c. *[NOT PROVED];*
10. *[NOT PROVED];*
11. *[NOT PROVED];*
12. *Did not record the exceptional circumstances that justified Service User E's caring arrangement between 28 September 2015 and 1 March 2016.*
13. *On or around 7 January 2016 did not record the outcome of an assessment relating to Service User G.*
14. *On or around 6 October 2015 recorded the outcome of a Decision Support Tool meeting incorrectly in that you labelled it as Fast Track Review in relation to Service User X.*
15. *On or around 27 April 2016 produced an inadequate support plan for Service User O in that:*
 - a. *there was no consideration of transport costs;*
 - b. *the care exceeded the bracket of care which you were permitted to authorise.*
16. *In relation to Service User J:*
 - a. *labelled the service user as having a learning disability when they did not;*
 - b. *did not follow up the service user's need for assistive technology.*
17. *The matters set out in paragraphs 1-16 constitute misconduct and/or lack of competence.*

18. *By reason of your misconduct and/or lack of competence your fitness to practise is impaired.*

17. The final order review panel on 30 August 2019 determined the following with regard to impairment:

“...In reaching a decision the panel took the following into account:

(a) The registrant's lack of engagement with the regulatory process and the absence of evidence of her commitment to remaining in the profession, of her level of insight, of remediation or her current circumstances;

(b) The nature of the Allegation found against her by the substantive panel;

(c) The determination of the substantive panel;

(d) The persuasive burden is on the registrant to demonstrate she has sufficiently addressed the deficiencies in her practice.

The substantive panel had indicated to the Registrant the sort of information that would have assisted her. She has not provided that information, nor re engaged with the HCPC to begin the process of remediation.

The Panel noted that the seventeen incidents of lack of competence found by the substantive panel fell into five broad areas of practice:

(a) Completion of case notes and/or record keeping;

(b) Delayed and/or inaccurate communications with service users and their families;

(c) Failure to follow management advice;

(d) Failure to raise concerns;

(e) Failure to provide adequate support to service users.

The panel agreed with the previous panel that the Registrant's actions had placed service users at risk of harm and could have adversely affected her colleagues. The failings in the Registrant's practice were fundamental elements of social work and vulnerable adults had been exposed to a risk of harm by her failings.

Taking all of the above into consideration and the paucity of evidence before it, the Panel determined that the Registrant's fitness to practise remains impaired because

of her lack of competence on both the personal and public components”.

18. The order review panel on 30 August 2019 determined the following with regard to sanction:

“The panel went on to consider what action to take today. The panel took into account the HCPC Sanctions Policy document and considered its powers under Article 30(1).

The panel first considered taking no further action and allowing the order to lapse upon expiry. The panel determined that this was not appropriate as the Registrant's fitness to practise remains impaired and taking no action would neither protect the public nor be in the public interest.

The panel went on to consider whether to impose a Caution order upon the expiry of the current order. For the same reason set out above, the panel determined that the imposition of a Caution order upon expiry of the current order is not the appropriate action to take.

The panel next considered whether conditions of practice could be imposed whilst keeping the public safe. A Conditions of Practice Order may be appropriate for cases involving a lack of competence. However, they will rarely serve any useful purpose

without the engagement of a Registrant demonstrating their commitment to resolving the issues and to remaining in the profession. The Registrant's lack of engagement is such that the panel cannot be satisfied that she is able, or willing, to comply

with any conditions it could formulate. Therefore, a Conditions of Practice Order is not sufficient to protect the public and the wider public interest.

In the light of the above, the panel determined that a Conditions of Practice Order would not be sufficient to protect the public and/or the public interest.

The panel then considered whether a Suspension Order was the appropriate and proportionate response to the risk to the public and the public interest identified. It determined that in light of the above considerations a Suspension Order for 12 months

is necessary. The panel determined that this would provide the Registrant with a further period both to demonstrate her willingness to reengage with the HCPC and to indicate her commitment to the profession. The panel exercises its powers under Article 30(1) of the Health and Social Work Professions Order 2001 and imposes this 12 month Suspension Order upon the expiry of the current order.”

19. The review panel on 20 August 2020 determined the following with regard to impairment.

The panel first considered whether the Social Worker's fitness to practise remains impaired. The panel noted that the Social Worker had not submitted a reflective piece of writing dealing with the lack of competence found proved or any steps in re-mediation that she has or proposes to take in future. There was no evidence which would support any understanding by the Social Worker of the effects that her lack of competence had on service users, professional colleagues and the wider public.

The panel noted the Social Worker's lack of engagement with this process until very recently. In her email of 19 August 2020, she does not appear to accept any failings on her part and instead focused on her PRIVATE. The panel was sympathetic to the Social Worker's PRIVATE and personal circumstances. However, her submissions lacked any indication of remorse or any insight into the impact of her lack of competence on service users, her colleagues and the public.

The Social Worker's lack of competence related to basic social work skills. The panel found no evidence that she has done anything to meaningfully reflect on matters or to put in place a plan for training and further reflection. There has not been any compliance with the suggestions set out by the previous panels looking at this case. There were no personal or professional testimonials or references available to the panel.

In the circumstances, the panel found that there remains a real risk of repetition of the lack of competence which resulted in these proceedings and that therefore the risk of harm to service users remains. In the absence of insight and remediation, the panel also finds the Social Worker's fitness to practise remains impaired on public interest grounds."

20. The review panel on 20 August 2020 determined the following with regard to sanction.

No Action

The panel concluded that, in view of the nature and seriousness of the Social Worker's impairment which has not been remedied, and in the absence of exceptional circumstances, it would be inappropriate to take no action. Furthermore, it would be insufficient to protect the public, maintain public confidence and uphold the reputation of the profession.

Advice or Warning

The panel then considered whether to issue advice or a warning. The panel noted that neither of these sanctions would restrict the Social Worker's ability to practise and are therefore not appropriate where there is a current risk to public safety. In any event, the deficiencies in Social Worker's practise had the potential to have wide ranging adverse consequences and therefore some restriction on her practise is required. Therefore, the panel concluded that issuing advice or a warning would be inappropriate and insufficient to meet the public interest.

Conditions of Practice Order

The panel went on to consider a conditions of practice order. The panel took the view that with insight, reflection, training and commitment the Social Worker's deficiencies could potentially be capable of being remedied. However, there was no evidence to demonstrate that the Social Worker is willing to engage with conditions. The opposite appears true. The Social Worker has stated an intention not to return to professional practice. In all of these circumstances a conditions of practice order was inappropriate.

Suspension Order

Having determined that a conditions of practice order would not be appropriate, the panel concluded that the appropriate sanction is a suspension order. A suspension order would prevent the Social Worker from practising during the suspension period, which would therefore protect the public and the wider public interest.

The panel determined that the suspension order should be imposed for a period of 6 months. The panel was satisfied that this period was appropriate and would give the Social Worker an opportunity to reflect on the matter and come to a mature view whether to engage meaningfully with this process or not. Therefore, the suspension period reflects the amount of time that the Social Worker may need to reflect on the panel's findings and devise a plan of action targeted towards a return to the register unrestricted if she wishes to do so.

This panel cannot bind a future panel. However, a future reviewing panel would expect Social Worker to attend the next review hearing and it would be of assistance to that panel if she was able to provide evidence that she has undertaken significant steps that would facilitate a safe and effective return to the register without restriction. This may include:

- 1. The Social Worker's further engagement with the regulatory process which could include communications with Social Work England and attending a re-view hearing;*
- 2. Evidence that she has developed and reflected on the areas of concern in her practice which could include a written reflection, details of any relevant training or learning and any other steps she has taken to improve and remediate the concerns with her practice;*
- 3. Information about her current circumstances including any work (voluntary or paid) undertaken and confirmation of her intentions in regard to a possible return to professional practice.*
- 4. Testimonials from colleagues from either voluntary or paid work....*

Today's submissions:

Social Work England:

21. The panel read the submissions by Social Work England as to the background and the previous panel's findings in relation to impairment and sanction.

22. Social Work England submitted:

'Social Work England is applying for a Removal Order in this case. There has been a lack of engagement from the Social Worker since the last hearing. She has failed to act upon any of the recommendations made by the Panel on the last occasion.

The previous Panel found that there was a real risk of repetition of the lack of competence demonstrated in the Social Worker's practice. Since the last review there remains a lack of evidence that the Social Worker has any understanding of the effects that her lack of competence had on service users, professional colleagues and the wider public. The Social Worker does not appear to accept any failings and has not expressed any remorse or insight.

The Social Worker's lack of engagement suggest that this will re- main the case Social Work England acknowledge that the Social Worker has detailed her PRIVATE previously, however she has not provided any further information or evidence regarding this. As the Social Worker has not provided any evidence as outlined, her fitness to practise remains impaired

Significant periods of suspension have not assisted the Social Worker to demonstrate remediation, remorse and insight and there is no indication that she will do so moving forward. Social Work England would submit that in the circumstances no other outcome would be adequate to protect the public, maintain confidence in the profession or maintain proper professional standards for Social Workers in England'

Ms Tait:

23. Ms Tait emailed Social Work England on 17 February 2021 making written submissions. She stated that the incidents which occurred leading to these proceedings were because of her then medical history which she set out. She explained that the details of her PRIVATE were her defence to the allegations. She observed that there was no reference to these conditions in the papers, which she felt was an important oversight as they had been available to the original HCPC Committee at the point of it making its decisions. She submitted that her PRIVATE was still an issue and she explained her current difficulties. She asked (in effect) that the allegations against her were discontinued.

24. The panel accepted the advice of the legal adviser including that at this stage of the proceedings, there is no burden or standard of proof and the decision on impairment is a matter for this panel's judgement alone. The panel also took account of Social Work England's 'Sanction Guidance'.

25. Throughout its deliberations, the panel had regard to Social Work England's overarching objective to protect the public and the wider public interest in declaring and upholding proper standards of behaviour and maintaining public confidence in the profession.

26. The panel noted it must determine whether Ms Tait's fitness to practise is impaired today, taking into account her conduct at the time of the events and any relevant factors

since then, such as whether the matters are remediable, have been remedied, and any likelihood of repetition. The panel must determine whether Ms Tait has demonstrated insight, and if so, to what extent.

27. The panel noted that, at a review hearing, there is a persuasive burden on Ms Tait to show that her fitness to practise is no longer impaired. In considering the question of current impairment, the panel undertook a comprehensive review of the final order in light of the current circumstances.

28. The panel had regard to all of the documentation before it, including the decisions and reasoning of the original panel and the previous review panels. The panel also had the repeated submission by Ms Tait relating to her PRIVATE, at the time the competence concerns arose in relation to her practice, and her wish to have the allegations against her discontinued. The panel also noted Ms Tait's submission in August 2020 that she did not intend to return to practice as a social worker.

29. The panel first considered whether Ms Tait's fitness to practise remains impaired. The panel noted that Ms Tait had not submitted a reflective piece of writing dealing with the lack of competence found proved or any remedial steps that she has taken or proposes to take in the future. There was no evidence which would support any understanding by Ms Tait of the effects that her lack of competence had on service users, professional colleagues and the wider public.

30. The panel noted Ms Tait's continued lack of substantive engagement with this process. Ms Tait did email Social Work England in both August 2020 and February 2021. However she does not appear to accept any failings on her part and instead focused on her stated PRIVATE only. The panel whilst taking account of Ms Tait's submission in relation to her PRIVATE, noted that Ms Tait's submissions continued to lack any indication of remorse or any insight into the impact her lack of competence had on service users, her colleagues and the public.

31. The panel noted that the competency matters related to the fundamental skills of a social worker such as recording of information, and working with vulnerable service users. The panel found no evidence that Ms Tait has done anything to meaningfully reflect on matters or to put in place a plan for training and further reflection to ensure her mistakes are not repeated. There has not been any compliance with the suggestions set out by the previous two reviewing panels. There were no personal or professional testimonials or references available to the panel.

32. In the circumstances, the panel was unable to conclude that Ms Tait has developed insight or that she has taken any steps to remedy her lack of competence. The risk of repetition is unchanged and therefore there remains a real risk of harm to service users.

33. The panel considered that members of the public would be concerned about the ongoing risk of repetition, the lack of evidence of remediation and insight and that Ms Tait's fitness to practise remains impaired. Moreover, the panel decided that a finding of impairment is justified to maintain confidence in the profession and the regulatory process and to uphold proper professional standards.

Decision and reasons on sanction:

34. Having found Ms Tait's fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel had regard to the submissions by Social Work England and Ms Tait and all the information before it, and accepted the advice of the legal adviser. The panel also took into account the Guidance published by Social Work England.

35. The panel considered the submissions made on behalf of Social Work England, inviting the panel to impose a removal order. It noted what was said by Ms Tait, including her PRIVATE, in her email of 17 February 2021.

36. The panel was mindful that the purpose of any sanction is not to punish Ms Tait, but to protect the public and the wider public interest. The public interest includes maintaining public confidence in the profession and Social Work England as the regulator by upholding proper standards of conduct and behaviour. The panel applied the principle of proportionality by weighing Ms Tait's interests with the public interest and by considering each available sanction in ascending order of severity.

No Action

37. The panel concluded that, in view of the nature and seriousness of Ms Tait's impairment which has not been remedied, and in the absence of exceptional circumstances, it would be inappropriate to take no action. Furthermore, it would be insufficient to protect the public, maintain public confidence and uphold the reputation of the profession.

Advice or Warning

38. The panel then considered whether to issue advice or a warning. The panel noted that neither of these sanctions would restrict Ms Tait's ability to practise and are therefore not appropriate where there is a current risk to public safety. In any event, the deficiencies in Ms Tait's practice had the potential to have wide ranging adverse consequences and therefore some restriction on her practice is required. Therefore, the panel concluded that issuing advice or a warning would be inappropriate and insufficient to meet the public interest.

Conditions of Practice Order

39. The panel went on to consider whether to impose a conditions of practice order. The panel had no information regarding Ms Tait's current employment. It did not have confidence that Ms Tait would comply with a conditions of practice order and such an order would not be workable or proportionate at the current time in light of her non engagement.

40. The panel noted Ms Tait has stated an intention not to return to professional practice. In all of these circumstances a conditions of practice order was not sufficient or appropriate.

Suspension Order

41. The panel next considered whether a further suspension order would be appropriate and proportionate. The panel noted Ms Tait's submissions about her PRIVATE, however the panel also noted that Ms Tait has not engaged in any way, with the suggested activities that were previously identified in terms of her lack of competence or the previous two review hearings. The panel therefore concluded that a further suspension order would not be appropriate or proportionate.

42. In light of its decision that a suspension order would no longer be appropriate the panel determined that the only proportionate and appropriate order would be a removal order.

43. The panel noted that despite numerous opportunities to attend hearings in person and to present oral submissions, including at the substantive hearing and subsequent reviews, Ms Tait has not done this. She has not engaged or participated substantively in the Social Work England process. The panel has seen no evidence of insight or remediation, any work (voluntary or paid) undertaken or testimonials from colleagues.

44. The panel noted that a removal order is a sanction of last resort where there is no other means of protecting the public or the wider public interest.

45. The panel considered that there had been no change in circumstances since the last review hearing. Ms Tait has not engaged. There was no evidence that Ms Tait had taken any remedial action or that her level of insight had changed. There was no evidence that she had considered or addressed any of the suggested activities.

46. In all the circumstances of this case the panel is satisfied that the appropriate and proportionate order is a removal order and imposes a removal order.

ORDER: That the Registrar is directed to strike the name of Josephine Veronica Tait from the Register on the date this Order comes into effect.

Right of Appeal:

47. Under paragraph 16 (1) (b) of schedule 2, part 5 of the Social Workers Regulations 2018, a social worker may appeal to the High Court against: a) the decision of adjudicators:

(a) to make an interim order, other than an interim order made at the same time

as a final order under paragraph 11(1)(b),

(b) not to revoke or vary such an order,

(c) to make a final order,

(b) the decision of the regulator on review of an interim order, or a final order, other than a decision to revoke the order.

48. Under regulation 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.

49. 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.

50. 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:

51. Under regulation 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.

52. 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.

That concludes this determination.