

Social worker: Althea Clarkson
Registration number: SW70229
Fitness to Practise
Final Order Review meeting

Date of meeting: 06 September 2024

meeting venue: Remote meeting

Final order being reviewed: Suspension order – (expiring 20 October 2024)

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

Introduction and attendees:

1. This is the second review of a suspension order originally imposed for a period of 12 months by a panel of adjudicators on 21 July 2022. The final order was reviewed on 30 June 2023 where the suspension order was extended by a further 14 months.
2. Ms Clarkson did not attend and was not represented at the review.
3. Social Work England was represented by Capsticks LLP and their written submissions are set out within the notice of hearing letter.
4. The panel of adjudicators conducting this review (the “panel”) and the other people involved in it were as follows:

Adjudicators	Role
Nigel Westwood	Chair
Jill Wells	Social worker adjudicator

Hearings team/Legal adviser	Role
Hannah McKendrick	Hearings officer
Kathryn Tinsley	Hearings support officer
Neville Sorab	Legal adviser

Service of Notice:

5. The panel had careful regard to the documents contained in the service bundle as follows:
 - A copy of the Notice of Hearing dated 07 August 2024 addressed to Ms Clarkson at her postal address as it appears on the Social Work England Register;
 - An extract from the Social Work England Register, accessed on 07 August 2024, detailing Ms Clarkson’s registered postal address;
 - A copy of a signed Statement of Service, on behalf of Social Work England, confirming that on 07 August 2024 – more than seven days before this review – the writer sent by email and special delivery to Ms Clarkson at her registered postal address: Notice of Hearing and related document; and
 - A copy of the Royal Mail Proof of Delivery indicating a return of the Notice of Hearing and related document.

6. The panel accepted the advice of the legal adviser in relation to service of notice. This included reference to Rules 16, 44 and 45 of Social Work England's Fitness to Practise Rules 2019 (as amended) (the "FTP Rules 2019").
7. Having had regard to Rules 16, 44 and 45 of the FTP Rules 2019 and all of the information before it in relation to the service of notice, the panel was satisfied that notice of this hearing had been served on Ms Clarkson in accordance with Rules 44 and 45 of the FTP Rules 2019.

Proceeding with the interim order review as a meeting:

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

"If you would like to attend before the adjudicators in order to make oral submissions, please confirm your intention by no later than 4pm on 22 August 2024. Unless we hear from you to the contrary, we shall assume that you do not want to attend a hearing and Social Work England may decide to deal with the review as a meeting. If Social Work England do hold a meeting, the adjudicators will be provided with a copy of this letter setting out Social Work England's submissions and a copy of any written submissions you provide."

9. The panel noted that Ms Clarkson's email address no longer accepted emails from 23 August 2022. The panel also noted paragraph 4 of the final hearing panel's decision:

"The panel of adjudicators (hereinafter "the panel") was informed by Mr Moran that notice of this hearing was sent to Ms Clarkson by special delivery first class post to her address on the Social Work Register (the Register) on 17 June 2022, but this had been returned to Capsticks as undelivered. Mr Moran told the panel that Capsticks had instructed enquiry agents to check whether Ms Clarkson continued to reside at the address she had provided to Social Work England and had been advised in a letter dated 16 June 2022 that the house at which she was joint proprietor had been sold and that no forwarding address had been provided. Mr Moran told the panel that Ms Clarkson had also been sent the notice of hearing dated 17 June 2022 by email to an email address held by Social Work England through which Ms Clarkson had previously communicated."

10. The panel accepted the advice of the legal adviser in relation to the factors it should take into account when considering whether it was fair and appropriate to proceed with the review in the absence of Ms Clarkson. This included reference to the cases of *R v Jones [2002] UKHL5*; *General Medical Council v Adeogba [2016] EWCA Civ 162*. In particular, the legal adviser pointed out that *Adeogba* made it clear that it is the duty of the social worker to keep the register correct and to make the necessary alterations in the addresses of registered persons. Accordingly, Social Work England requires social workers to provide a current registered address(es). Therefore, should a social worker not update their contact details with Social Work England (particularly when they are aware that they are subject to disciplinary

investigation) would not provide a reasonable explanation for failure to participate in the process, sufficient to require the panel to adjourn consideration of a fixed disciplinary hearing.

11. The panel also took into account Social Work England's guidance "*Service of notices and proceeding in the absence of the social worker*". The panel heard and accepted the advice of the legal adviser with regard to Rule 16(c) of the Fitness to Practise Rules 2019 (as amended) which provides:

"Where the registered social worker does not state within the period specified by the regulator whether they intend to attend before the regulator, the regulator may determine whether to make an order by means of a meeting."

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

- a. It is incumbent on Ms Clarkson to keep the Social Work England register updated. The panel considers that Social Work England has done all it can to make Ms Clarkson aware of today's review, and if Ms Clarkson has not received the Notice of Review, it is due to her failure to update her contact details on the Social Work England register. Consequently, this is not a reasonable explanation for her failure to participate in the process, sufficient to require the panel to adjourn;
- b. The last time Ms Clarkson engaged with Social Work England was September 2020 and, therefore, there is nothing to indicate that an adjournment would secure the attendance of Ms Clarkson in the future;
- c. The review is a statutory review; and
- d. The continuation of the meeting was important in order to consider the protection of the public.

Review of the current order:

13. This final order review meeting is taking place under Paragraph 15(1) of Schedule 2 of The Social Workers Regulations 2018 (as amended) and Social Work England's Fitness to Practise Rules 2019 (as amended).
14. The current order is due to expire on 20 October 2024.

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

"Whilst registered with the Health and Care Professions Council as a Social Worker and during the course of your employment with CAFCASS, you:

1. *Between July 2016 and April 2017 did not file the report to the Court in the required timescale for the following cases:*
 - a. *Service User 1;*
 - b. *Service User 2;*
 - c. *Service User 3;*
 - d. *Service User 4; and*
 - e. *Service User 15.*
2. *Did not effectively manage cases, in that you did not:*
 - a. *In the case of Service User 6, which was allocated to you on 2 February 2017, had not by 6 March 2017:*
 - i. *Record having arranged appointments with service users on the case file; and*
 - ii. *Made updates in the contact log.*
 - b. *In the case of Service User 7, which was allocated to you on 8 February 2017, had not by 6 March 2017:*
 - i. *Arranged and/or recorded having arranged appointments with service users on the case file.*
 - c. *In the case of Service User 8, make appointments within 10 days of allocation.*
 - d. *In the case of Service User 9, in which a court outcome for further work was received on 31 January 2017, had not, by 6 March 2017 arranged appointments with service users;*
 - e. *In the case of Service User 10, which was allocated to you on 22 March 2017, had not by 19 April 2017:*
 - i. *Record having arranged appointments with service users on the case file; and*
 - ii. *Made updates in the contact log.*
 - f. *In the case of Service User 11, which was allocated to you on 5 April 2017, had not, by 19 April 2017:*
 - i. *Arranged and/or recorded having arranged appointments with service users on the case file; and*
 - ii. *Completed a case plan.*
 - g. *In the case of Service User 12, which was allocated to you on 6 April 2017, had not by 19 April 2017:*

- i. *Arranged and/or recorded having arranged appointments with service users on the case file; and*
 - ii. *Completed a case plan.*
3. *[Not proved]*
4. *The matters described at paragraphs 1 – 2 constitute lack of competence.*
5. *By reason of your lack of competence your fitness to practise is impaired.”*

The previous final order review panel on 30 June 2023 determined the following with regard to impairment:

21. *“The panel noted paragraph 88 of the final hearing panel’s decision:

‘The panel found that Ms Clarkson has in the past and is likely in the future to act so as to put service users at unwarranted risk of harm; has in the past and is likely in the future to bring the profession into disrepute as a result of her lack of competency; and that she has in the past and is likely in the future to breach fundamental tenets of the profession, namely fulfilling core social work duties and responsibilities.’*
22. *The panel notes that it has not received any information, since the final hearing, demonstrating that Ms Clarkson’s position has changed since then. There is no evidence before the panel of insight or remediation, and there is no indication that Ms Clarkson has made any attempt to address the deficiencies identified in her practice. Accordingly, the panel concluded that Ms Clarkson is currently impaired by reason of her lack of competence on the grounds of public protection and public interest.”*

The previous final order review panel on 30 June 2023 determined the following with regard to sanction:

“Advice/Warning

26. *The panel considered that advice or a warning was insufficient to protect the public, and not in the wider public interest, given Ms Clarkson’s lack of insight and remediation (as discussed above).*

Conditions of practice order

27. *The panel considered that a conditions of practice order would be impracticable due to:*
- a. conditions of practice require full engagement from Ms Clarkson. Ms Clarkson has not engaged at all with Social Work England; and*
 - b. the panel being unable to form conditions which would protect the public that would not be tantamount to a suspension. The panel was concerned that the risk to the public of the conduct being repeated remained.*

Suspension order

28. *The panel next considered whether a suspension order would be an appropriate sanction. The panel decided that a suspension order would be appropriate for the following reasons:*
- a. Ms Clarkson was provided with time and steps by the previous panel to assist her to find insight and demonstrate that she can practice without placing the public at risk. However, there is no evidence before the panel that she has done so; and*
 - b. Given her lack of engagement makes it difficult for the panel to impose conditions, and that a removal order is not available to this panel, a suspension order is considered appropriate to protect the public and in the wider public interest.*
29. *The panel considers 14-months to be an appropriate period of suspension given that it will give Ms Clarkson time to engage with Social Work England should she wish to continue as a social worker, or provide the next review panel with the option of a removal order should she not engage and consider it an appropriate sanction. Should Ms Clarkson wish to engage prior to, or at, the next review, the panel considered that a future reviewing panel may be assisted by Ms Clarkson attending and providing any evidence of insight or reflection on the findings made by the final order panel.*

Removal order

30. *A removal order is not currently available to the panel as this is a lack of competence case and Ms Clarkson has not been continuously subject to restrictions for two years."*

Social Work England submissions:

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

“Subject to any subsequent engagement by the Social Worker and/or any material submitted on their behalf, Social Work England invite the Panel to impose a Removal Order. A Removal Order is now an option available to the Panel as the Social Worker would have been continuously subject to restrictions for over 2 years by the time of the review on 6 September 2024.

Social Work England submit that the Social Workers fitness to practise remains impaired. The Social Worker did not attend the substantive hearing nor the first final order review and has not been in contact with the Case Review Team for the duration of the Order. She has not engaged with the regulator since June 2020.

The Panel at the final hearing made recommendations that the Social Worker provide evidence of training and a reflective piece to assist a future reviewing panel. The Social Worker has not provided these. The Panel at the review hearing highlighted that any future reviewing panel would benefit from the Social Worker attending and providing evidence of insight and reflection on the findings made at the conclusion of the final hearing.

At present, there is no evidence before the Panel of insight or remediation and nor has there been any communication thus far from the Social Worker to suggest she intends on attending the review hearing on 6 September 2024. There is no indication that the Social Worker has made any attempt to address the issues identified in their practice. Consequently there remains a risk of repetition and a risk to the public should the Social Worker be permitted to practise without restriction.

The existing Suspension Order imposed provided a duration of over 2 years which was a sufficient and reasonable period of time for the Social Worker to engage with the proceedings and carry out the necessary work to provide evidence of insight and reflection. However, the complete absence of the Social Worker for the duration of these proceedings with no evidence submitted on her behalf only serves to demonstrate that the Social Worker does not intend to return to social work. At this stage, no other outcome than Removal would suffice to protect the public, maintain confidence in the profession and maintain proper professional standards for social workers in England.”

Social worker submissions:

16. Ms Clarkson did not attend to make oral submissions and did not provide any written submissions for the panel to consider.

Panel decision and reasons on current impairment:

17. In considering the question of current impairment, the panel undertook a comprehensive review of the final order in light of the current circumstances. It took into account the decision of the final hearing panel and the previous final order review panel. However, it has exercised its own judgement in relation to the question of current impairment. The panel also took into account Social Work England's "*Impairment and sanctions guidance*".
18. The panel had regard to all of the documentation before it, including the decision and reasons of the final hearing panel and previous final review panel. The panel also took account of Social Work England's written submissions.
19. The panel heard and accepted the advice of the legal adviser, including the case of *Abrahaem v GMC [2008] EWHC 183* which sets out that, at a review, there was a persuasive burden on the registrant to demonstrate that previous concerns and impairments had been sufficiently addressed. In reaching its decision, the panel was mindful of the need to protect the public and the wider public interest in declaring and upholding proper standards of behaviour and to maintain public confidence in the profession.
20. The panel first considered whether Ms Clarkson's fitness to practise remains impaired. The panel determined that Ms Clarkson was still impaired for the following reasons:
 - a. She has not engaged with Social Work England since September 2020. Consequently, she has not demonstrated that she is no longer impaired. Further, she has not provided any indication that she is willing to remediate her practice.
 - b. The previous Final Order Review Panel provided Ms Clarkson with suggestions as to how she might evidence remediation of her practice. This gave Ms Clarkson an opportunity to remediate her practice. However, Ms Clarkson has not engaged with the final hearing panel's suggestions.

Decision and reasons on sanction:

21. Having found Ms Clarkson's fitness to practise is currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel had regard to the written submissions made and accepted the advice of the legal adviser.
22. The panel considered the written submissions made by Social Work England, during which they invited the panel to consider imposing a removal order. The panel also took into account the "*Impairment and sanctions guidance*" published by Social Work England.
23. The panel was mindful that the purpose of any sanction is not to punish Ms Clarkson, but to protect the public and the wider public interest. The public interest includes maintaining public confidence in the profession and Social Work England as its regulator and by upholding

proper standards of conduct and behaviour. The panel applied the principle of proportionality by weighing Ms Clarkson's interests with the public interest.

24. The panel decided it would not be appropriate to take no further action or issue advice or a warning. It had made a finding of current impairment and any sanction that does not restrict Ms Clarkson's practice is not appropriate and would not protect the public.
25. The panel next considered whether conditions of practice would be an appropriate sanction. The panel considered that conditions of practice was not an appropriate or proportionate sanction given Ms Clarkson's protracted lack of engagement, insight and remediation. The panel considered that allowing Ms Clarkson to practice, even with restrictions, may place service users and the public at risk of harm.
26. The panel considered that a suspension order would not be appropriate or proportionate given Ms Clarkson's lack of engagement over the past four years, and her lack of insight and remediation. Ms Clarkson has not demonstrated that any risk she poses by practicing as a social worker has been reduced since her Final Hearing, despite being given suggestions on how to evidence remediation and the opportunity to remediate her practice.
27. The panel was satisfied it could consider that a removal order was available to the panel as Ms Clarkson's fitness to practise was originally found impaired on the basis of one or more grounds as set out in regulation 25(2)(b) and Ms Clarkson has been suspended from practice for a continuous period of two years immediately preceding today's hearing.
28. 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. Due to Ms Clarkson's consistent lack of engagement with Social Work England, despite numerous opportunities to demonstrate insight and remediate her practice, the panel considers removal, upon expiry of the current order, to be the appropriate sanction in the circumstances given:
 - a. Ms Clarkson's lack of engagement over the past four years;
 - b. Ms Clarkson's lack of evidence of any insight and remediation;
 - c. Ms Clarkson has not demonstrated that any risk she poses by practicing as a social worker has been reduced since her Final Hearing, despite being given guidance and the opportunity to remediate her practice; and
 - d. The panel also considered that, given Ms Clarkson's lack of engagement with Social Work England and the fitness to practise process, that continuing with a suspension order would not be in the public interest.

Right of appeal:

29. Under Paragraph 16(1)(b) of Schedule 2 of The Social Workers Regulations 2018 (as amended), the social worker may appeal to the High Court against:
 - a. the decision of adjudicators:

- i. to make an interim order, other than an interim order made at the same time as a final order under paragraph 11(1)(b),
 - ii. not to revoke or vary such an order,
 - iii. to make a final order,
 - b. the decision of the regulator on review of an interim order, or a final order, other than a decision to revoke the order.
30. Under Paragraph 16(2) of Schedule 2 of The Social Workers Regulations 2018 (as amended) an appeal must be filed before the end of the period of 28 days beginning with the day after the day on which the social worker is notified of the decision complained of.
31. Under Paragraph 15(1A) of Schedule 2 of The Social Workers Regulations 2018 (as amended), where a social worker appeals against a decision made under sub-paragraph (1), the decision being appealed takes effect from the date specified in that sub-paragraph notwithstanding any appeal against that decision.
32. This notice is served in accordance with Rules 44 and 45 of the Fitness to Practise Rules 2019 (as amended).

The Professional Standards Authority

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

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