

Social worker: Dawn Nicholson

Registration number: SW84727

Fitness to Practise

Final Hearing

Dates of hearing: 17 September 2024 to 23 September 2024

Hearing venue: Remote hearing

Hearing outcome:

Fitness to practise impaired, suspension order (12 months)

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 Nicholson did not attend and was not represented.
3. Social Work England was represented by Ms Atkin case presenter from Capsticks LLP.

Adjudicators	Role
Karen McArthur	Chair
Vicki Lawson-Brown	Social worker adjudicator
Angela Duxbury	Lay adjudicator

Hannah Granger	Hearings officer
Jo Cooper	Hearings support officer
William Hoskins	Legal adviser

Service of notice:

4. The panel of adjudicators (hereafter “the panel”) was informed by Ms Atkin that notice of this hearing was sent to Ms Nicholson by email to an address provided by her, namely her registered email address as it appears on the Social Work England register. Ms Atkin submitted that the notice of this hearing had been duly served.
5. The panel of adjudicators 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 15 August 2024 and addressed to Ms Nicholson at the email address which she provided to Social Work England;
 - An extract from the Social Work England Register detailing Ms Nicholson’s registered email address;
 - A copy of a signed statement of service, on behalf of Social Work England, confirming that on 15 August 2024 the writer sent by email to Ms Nicholson at the address referred to above: notice of hearing and related documents;
6. The panel accepted the advice of the legal adviser in relation to service of notice.
7. Having had regard to Rules 14 and 15 of the Fitness to Practise Rules 2019 (as amended) (“the 2019 Rules”) 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 Nicholson in accordance with Rules 44 and 45 of the 2019 Rules.

Proceeding in the absence of the social worker:

8. The panel heard the submissions of Ms Atkin on behalf of Social Work England. Ms Atkin referred to Rule 43 of the 2019 Rules and submitted that notice of this hearing had been duly served.
9. Ms Atkin referred the panel to very recent email correspondence from Ms Nicholson in which Ms Nicholson had stated that she did not intend to attend the hearing due to her need to earn money from her current employment and to difficult circumstances that had arisen in relation to her current accommodation. In emails of 15 September, 16 September and 17 September 2024 Ms Nicholson wrote, respectively. *“I work all week in factory and so cannot attend the hearing, I cannot take time off as need the money and cannot afford to”, “I am sorry I cannot attend but circumstances dictate at this time”* and *“I had an eviction notice yesterday...So now I have to find somewhere else to live via the council . I have no time to consider the hearings.”*
10. In her email of 16 September 2024 Ms Nicholson wrote: *“I am happy to provide written submissions to any [questions] or information needed.... If you let me know how and when you need written submissions, I will try to complete them as soon as you need them”*.
11. Ms Atkin took the panel through the considerations it needed to have in mind, as endorsed in the case of *R v Jones* [2002] UKHL5. She emphasised that Ms Nicholson had known of the dates of this hearing since 29 April 2024, when a Directions Order was made, but she appeared to have taken no steps to make herself available on the hearing dates by, for example, booking leave from work. She drew the panel’s attention to correspondence between Capsticks, acting on behalf of Social Work England, and Ms Nicholson in May and June 2024. This correspondence included disclosure, by Capsticks, of the draft Statement of Case, Hearings Bundles and a Hearing Timetable on 21 May 2024 and a reminder that Ms Nicholson should provide a response to this material by 18 June 2024. No response was provided by Ms Nicholson.
12. Ms Atkin submitted that any postponement was bound to be of considerable length, in view of the present listing restrictions and that the panel could have no confidence that Ms Nicholson would attend on a future occasion. Although there was a disadvantage to Ms Nicholson in not being present, she had made various written observations in relation to the allegations, and these would be placed before the panel so that they could be considered. Ms Atkin submitted that Ms Nicholson had voluntarily absented herself from the proceedings. She submitted that fairness to the regulator and the public interest in resolving these allegations expeditiously weighed heavily in favour of proceeding in Ms Nicholson’s absence.
13. 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 the principles contained in *General Medical Council v Adeogba* [2016] EWCA Civ 162. The panel also had regard to Social Work England’s guidance ‘*Service of notices and proceeding in the absence of the social worker*’. The panel recognised that its power to

proceed in the absence of Ms Nicholson was a power to be exercised with great care and caution.

14. The panel considered all of the information before it, together with the submissions made by Ms Atkin on behalf of Social Work England and the emails received from Ms Nicholson. The panel was satisfied that Ms Nicholson had been aware of the hearing dates in this case since the end of April 2024. She had not responded to disclosure of Social Work England's case, as required by the amended Directions Order. She had been sent formal notice of today's hearing on 15 August 2024 and had eventually responded, for the first time, on 16 September 2024, by indicating that she did not propose to attend, for reasons relating to her financial circumstances and , subsequently, her need to prioritise difficulties that had arisen in relation to her accommodation.
15. The panel concluded that Ms Nicholson had chosen voluntarily to absent herself. The panel had no reason to believe that a postponement would result in Ms Nicholson's attendance on a future occasion. The allegations dated from October 2020 to February 2021 and there was a strong public interest in resolving these allegations expeditiously. Having weighed the interests of Ms Nicholson with those of Social Work England and the public interest in an expeditious disposal of this hearing, the panel determined to proceed in Ms Nicholson's absence.

Allegations:

16. *Whilst registered as a social worker:*

1. In the period between October 2020 to February 2021 you failed with respect to one or more of the children/ families on your caseload (as specified in Schedule 1) to:

a. carry out one or more Child Protection and/ or Child in Need and/ or Cared for Child visits;

(i) in a timely manner;

(ii) in person;

b. accurately record information relating to one or more visits.

2. You used your personal mobile phone to communicate with one or more families who were on your caseload at Torbay Council.

3. You recorded that you had visited Family W at home on 8 February 2021, when that was not the case.

4. You failed, in a timely manner or at all, to inform Social Work England of your registration with Social Care Wales, despite being informed that you were required to provide the details of any regulatory body you were registered with by 24 May 2021.

5. Your actions as set out at paragraphs 3 and/ or 4 above were dishonest.

The matters at paragraphs (1), (2), (3), (4) and/or (5) amount to the statutory ground of misconduct.

Your fitness to practise is impaired by reason of misconduct.

Schedule 1

1. *Child A;*
2. *Family X, which included:(i) Child B; (ii) Child C (iii) Child D; (iv) Child E; (v) Child F; (vi) Child G;*
3. *Family W, which included:(i) Child H; (ii) Child I;*
4. *Child J;*
5. *Child K;*
6. *Child L.*

Admissions:

17. No formal admissions had been made. Accordingly, the panel went on to determine the facts.

Summary of evidence:

18. The panel first heard evidence from Ms Sandra Sylvester, who was, at the relevant time, the Team Manager of the Safeguarding Team in which Ms Nicholson had worked. Ms Sylvester had started work at the Council, in a Team Manager role, in July 2020. Ms Nicholson had been engaged as an Agency Social Worker some six weeks before. In October 2020 she secured permanent employment with the Council and from early November 2020 her role was that of an Advanced Practitioner.
19. Ms Sylvester confirmed the contents of her witness statement. In her witness statement she explained that the Children Act 1989 and the Council's Guidance required children on a Child Protection plan to be seen every ten working days. The frequency of visits is linked to the possibility that the child is or is likely to be experiencing significant harm. A Child in Need was to be seen every 20 working days because of the possibility that the child's development may be negatively impacted by the quality of care provided to them. Ms Sylvester told the panel that these time limits had to be observed and that if a visit was not carried out within the appropriate timescale, she should have been informed.
20. Ms Sylvester said during the early part of the Covid pandemic visits had to be carried out virtually, but by September 2020 there was a firm expectation that visits should be

in-person as such visits were far more effective in obtaining reliable information. She referred to the Council guidance applicable at the time which stated: “*Virtual visits will be a last resort and only with the agreement of the TM [Team Manager] and SM [Service Manager].*”

21. Based on the available case records, Ms Sylvester told the panel that Child A was a Child in Need and so needed to be seen every 20 working days. The Case Records showed that Child A had been visited by Ms Nicholson at home on 17 October 2020 and then on 21 January 2021. This was 65 working days after the visit in October 2020.
22. Ms Sylvester told the panel that Family X included children who were on Child Protection Plans. So, they needed to be seen every ten working days. The case notes record home visits carried out by Ms Nicholson on 28 October 2020, 25 November 2020, 21 December 2020, 9 January 2021 and 22 January 2021. The visit of 25 November took place 20 working days after the previous visit and the visit of 21 December (in fact carried out by another social worker) took place 18 working days later.
23. Ms Sylvester told the panel that the case records showed that Child H (a member of Family W) was a Child in Need when allocated to Ms Nicholson’s case load in July 2020. A Child in Need visit was carried out on 11 October 2020, but a visit scheduled for 11 November did not take place due to “a heavy caseload” and the next visit occurred on 17 November, 27 working days after the previous visit.
24. An Interim Child Protection Plan was implemented with effect from 9 December 2020, so from that point visits should have taken place within 10 working days. The case notes record visits on 14 December and 31 December 2020, with further visits on 7 January and 23 January 2021. The visits on 31 December 2020 and 23 January 2021 took place 12 working days after the previous visits. Although a visit was recorded in the case notes as having taken place on 8 February 2021, this did not, in fact, take place and no further visits occurred until after concerns were raised on 17 February by which time 18 working days had elapsed since the previous visit. A visit was carried out by another social worker on 18 February 2021.
25. Child J was subject to a Child Protection Plan when allocated to Ms Nicholson’s caseload on 18 August 2020. Child J was at that time living with her mother. On 7 October 2020, Ms Nicholson was informed that Child J’s sibling, Child K, was also now living with her mother. Child K was made subject to a Child Protection Plan on 16 November 2020.
26. Visits to these children were recorded on 11 October 2020 and, to Child J, on 21 October 2020 following a report that she had a bruise down her face. Further visits to each child were recorded on 29 October and 19 November 2020. This latter visit was 16 working days after the previous visit and so did not meet the appropriate timescale for visits to Child J.

27. On 8 December 2020 the case records show that Ms Nicholson was unable to complete a visit as she was in quarantine, and she asked another social worker to visit. This occurred on 9 December. Further visits to Child J occurred on 6 January, 18 January, 19 January, 26 January and 9 February 2021. The visits on 6 January and 9 February were out of time, being respectively 18 and 11 working days after the previous visits. The visit on 9 February was a virtual visit and not a home visit.
28. The case notes indicate visits to Child K on the same dates in December 2020 and January and February 2021. As Child K had been subject to a Child Protection Plan since 16 November 2020, the visits on 6 January and 9 February were out of time in the same way as was the case in respect of Child K's sibling, Child J.
29. Child L was a "Looked After Child" and so should have been seen regularly and needed to be seen every four to six weeks. The case notes record Ms Nicholson visiting Child L at his residential placement on 11 October 2020. Although case supervision records showed an apparent visit to Child L on 22 October 2020, this was an error, as the visit related to Child L's sibling who had been placed elsewhere. The next recorded visit was on 12 December 2020 (almost nine weeks later) when Child L was seen at his grandparents, rather than at his placement. The next visit six weeks later on 23 January 2021 also took place at Child L's grandparents rather than at his placement.
30. Ms Sylvester told the panel that she had become particularly concerned about a visit to Family W which had been recorded in the case records as having occurred on 8 February 2021. Ms Nicholson had told her, more than once, that she had completed a visit to this family on 8 or 9 February 2021. The time of the visit, as recorded in the notes (8 February 2021), appeared to her to coincide with a meeting she had held with Ms Nicholson, and she was also aware that Ms Nicholson had been in court on the afternoon of that day. Ms Sylvester established from Family W that no visit had occurred on 8 February 2021; the visit prior to that date occurred in January. On 17 February Ms Sylvester received an email from Ms Nicholson in which she accepted that no visit had occurred on 8 February 2021 and referred to a lot of visits which had been cancelled lately. Ms Sylvester denied that the Council was "lax" in relation to its obligation to carry out statutory visits.
31. Ms Sylvester also confirmed the Council's policy with regard to the use of personal mobile phones for professional purposes. She produced the Council's policy which stated that "*personal mobile phone should not be used for work, in particular for correspondence with customers*". Ms Sylvester said that it was important for work phones to be used so that there was a record of calls with service users and to ensure proper protection of confidential information.
32. The panel also heard evidence from Ms Angela Hornby, who was at the time the Service Manager at the Council. Ms Hornby confirmed the contents of her witness statement. Ms Hornby said that the case load for the team had been initially high but had been reduced within weeks and specifically Ms Nicholson's case load was further reduced because of her Advanced Practitioner status. She appeared to be coping well until

about two months before her departure in February 2021. She denied that there was any laxity in the Council's approach to meeting the appropriate timescales for visits; there was pressure to make sure the Council was compliant. She confirmed that by 2021 the management team at the Council was becoming increasingly concerned about Ms Nicholson's performance. She also said that Ms Nicholson had told her on 12 February 2021, in response to a direct question, that she had completed a visit to Family W on 8 February 2021.

33. The panel heard evidence from Mr Iain Brown, a Team Manager at the Council, who was asked to investigate concerns relating to Ms Nicholson in February 2021. He produced his investigation report which included notes of an interview with Ms Nicholson on 9 March 2021. Ms Nicholson accepted the accuracy of these notes at the time. During this interview Ms Nicholson confirmed that she was aware of the timescales for visits, which she described as ten days for those on Child Protection Plans, "every three weeks" for Children in Need and for "Looked After Children" as often as possible and at least every six weeks. She said that she knew about these deadlines "only too well". She also accepted that visits should be face to face where possible and that she had recorded a visit to Children J and K, on 9 February 2021, as a home visit when it had in fact taken place over Zoom. Ms Nicholson also admitted that she had used her personal mobile phone to communicate with the families of Family W, Child L and the father of Child K.
34. In relation to the entry she had made about a visit to Family W on 8 February 2021, Ms Nicholson said that she had an entry in her notebook for a visit on 8 February and "couldn't remember it properly". She thought she had written "whatever I had in my book. I can't remember exactly."
35. Mr Brown told the panel that, in his recollection, the Council was not lax about observing the deadlines for visits and that Ms Nicholson had not told him of any arrangement whereby she did not have to meet the applicable deadlines.
36. The panel heard evidence from Witness A, who was, in 2021, employed as an investigator with Social Work England. Following the referral received in respect of Ms Nicholson, Witness 1 wrote to her, on 17 May 2021, and asked her to provide, by 24 May 2021:
 - a. details of your current and past employers (including address(es) and any relevant agency details) where you have provided services as a social worker, or in relation to social work*
 - b. details of anyone with whom you have or had an arrangement to provide services as a social worker, or in relation to social work,*
 - c. details of any regulatory body that you are registered with, including your registration number.*

37. Witness A produced Ms Nicholson's response, of 25 May 2021, entitled "*Report reflective in relation to referral to Social Work England*" which contained no reference to her registration with Social Care Wales.
38. The panel heard evidence from Witness B, a Senior Registration Officer with Social Care Wales. She told the panel that Ms Nicholson was first registered with Social Care Wales on 4 June 2020. Her registration was stated to be for a period of three years, and she was required to pay an annual fee each year. A reminder in relation to this latter requirement was sent to Ms Nicholson on 3 May 2021.
39. The panel had regard to a number of responses from Ms Nicholson in relation to the various allegations that had been made. These were contained in the "*Report*" of 25 May 2021, referred to at paragraph 36, and a number of emails. In these responses Ms Nicholson was critical of the size of her case load and asserted that visiting deadlines were not generally observed at the Council.
40. Ms Nicholson did not suggest in any of her responses that there were errors in the case records regarding the dates of visits to families and children, other than in respect of her recorded visit to Family W on 8 February 2021. In relation to this visit she wrote that she had completed the records at a time when she could not remember whether she had visited or not. She had subsequently asked for the records to be amended when she received confirmation from the parents of Child H and unborn Child I that a visit had not occurred on 8 February 2021. Ms Nicholson accepted that she should not have made these entries in the records but maintained that she did not intend to "defraud or mislead", although she accepted that making the entries was misconduct.
41. She also accepted that she had used her personal mobile phone to communicate with service users but said that it seemed the right thing to do at the time.

Finding and reasons on facts:

42. The panel heard submissions from Ms Atkin. It accepted the advice of the legal adviser. It recognised that the burden of proving each allegation rested with Social Work England and that the standard of proof required was the balance of probabilities. It considered each allegation separately and in respect of the first allegation it considered the evidence in relation to each child or family separately. In relation to the allegations of dishonesty, the panel was referred to the test set out in *Ivey v Genting Casinos (UK) Ltd* [2017] UKSC 67.

1. In the period between October 2020 to February 2021 you failed with respect to one or more of the children/ families on your caseload (as specified in Schedule 1) to:

a. carry out one or more Child Protection and/ or Child in Need and/ or Cared for Child visits;

(i) in a timely manner;

(ii) in person;

b. accurately record information relating to one or more visits.

43. In relation to the timeliness of visits the panel accepted the evidence of Ms Sylvester based upon the case records. It also accepted the evidence of Ms Hornby, Ms Sylvester and Mr Brown that the Council placed considerable emphasis upon visits being conducted within the appropriate timeframes. The panel therefore found that Ms Nicholson had failed to visit in a timely manner:
- Child A; between 17 October 2020 and 21 January 2021;
 - Family X; between 28 October 2020 and 25 November 2020 and between 25 November and 21 December;
 - Child H (a member of Family W); between 11 October and 17 November 2020, between 14 December 2020 and 31 December 2020, between 7 January 2021 and 23 January 2021 and between 23 January 2021 and 18 February 2021;
 - Child J; between 29 October and 19 November 2021, between 9 December 2020 and 6 January 2021, and between 26 January and 9 February 2021;
 - Child K; between 9 December 2020 and 6 January 2021 and between 26 January and 9 February 2021;
 - Child L; between 11 October 2020 and 12 December 2020.
44. In relation to visiting in-person the panel concluded that the visit to Child J and Child K on 9 February was a virtual visit and not an in-person visit. The panel noted that Ms Nicholson had accepted this allegation during her interview with Mr Brown.
45. In relation to the accurate recording of information, the panel concluded that the visit to Child K and Child J on 9 February 2021 had been inaccurately recorded as a home visit and that the case supervision records showed an apparent visit to Child L on 22 October 2020 when in fact the entry related to Child L's sibling who was not at the same placement.
46. The panel therefore found Charge 1 a i and ii and I b. Proved.
- 2. You used your personal mobile phone to communicate with one or more families who were on your caseload at Torbay Council.*
47. The panel noted that Ms Nicholson had accepted in her interview with Mr Brown and in her reflective account that she had used her personal mobile phone to communicate with several families.
48. The panel found Charge 2 Proved.
- 3. You recorded that you had visited Family W at home on 8 February 2021, when that was not the case.*

49. Ms Nicholson accepted in her interview with Mr Brown that she had recorded, in the case records relating to Family W a home visit on 8 February 2021 which had not in fact occurred. The record was made in the case notes for Child I: “*Visit Unborn baby 01.02/2021 at 11.00 am*” and on a visit record which specified the time of the visit as 12.26 and the location as the client’s home.
50. In this connection the panel also accepted that Ms Sylvester had texted the mother concerned and had been told by her that no visit had occurred on 8 February or indeed on any earlier date in February. Screenshots of the relevant text messages were exhibited by Ms Sylvester, as was an email from Ms Nicholson to her, dated 17 February 2021, in which she acknowledged that she had not visited on 8 February 2021 but had recorded a visit on that date in the case records. She apologised for doing so.
51. The panel found Charge 3 Proved.
- 4. You failed, in a timely manner or at all, to inform Social Work England of your registration with Social Care Wales, despite being informed that you were required to provide the details of any regulatory body you were registered with by 24 May 2021.*
52. The panel accepted the evidence of Witness A and Witness B. From their evidence it was apparent that Ms Nicholson had been asked to disclose details of her registration with any regulatory body other than Social Work England and she had failed to disclose her registration with Social Care Wales.
53. The panel found Charge 4 Proved.
- 5. Your actions as set out at paragraphs 3 and/ or 4 above were dishonest.*
54. The panel first considered dishonesty in relation to the entry in the records for 8 February 2021. On 17 February 2021 Ms Nicholson sent an email to Ms Sylvester;
- “My visit for [Child I, an Unborn member of Family W] I wrote for 8th is not correct. I checked with [I’s parents] today I had asked them at the beginning of the week about it they confirmed with me my last visit was the 23 Saturday Jan.*
- I have put on the 8th as they have cancelled a lot of visits lately... so I apologise for that I wrote it up and it says the same as the previous visit I think.*
- So sorry I also think I told you I had not visited since Saturday 23rd.”*
55. In her reflective account and in email correspondence, Ms Nicholson maintained that she did not intend to mislead but she recognised that what she had done was wrong and amounted to misconduct. She asserted that she sought to correct the record when she became aware from her communication with the parents of Unborn Child I that she had not visited on 8 February.
56. The panel heard evidence from both Ms Sylvester and Ms Hornby that Ms Nicholson had told them at around this time that she had visited Family W on 8 February. Ms Hornby said that she asked her directly about this on 12 February 2021 and was told that a visit had taken place. Ms Sylvester recalled being told by Ms Nicholson on two

occasions around this time that a visit to Family W had been completed. Ms Sylvester said that the request to amend the record was made after Ms Nicholson had become aware that there were concerns over this recorded visit.

57. The panel has concluded that Ms Nicholson's account that she could not remember, when she made the entries in the record, whether she had visited on 8 February or not was wholly implausible. Even if it were correct, it would still leave Ms Nicholson open to a finding of dishonesty. However, the panel accepted the evidence of Ms Hornby and Ms Sylvester that both were told within days of 8 February that a visit had taken place. That is consistent with a misleading entry being made in the case records. Ms Nicholson was an Advanced Practitioner who must have been well aware of the need for accuracy in relation to case records. At the time, as explained by Ms Sylvester, a visit to Family W was urgently required so that Child Protection arrangements could be put in place for the unborn Child I. The panel has concluded that Ms Nicholson knew when she made these entries that she had not visited Family W on 8 February. An ordinary decent person would regard this conduct as dishonest.
58. Accordingly, the panel finds that Ms Nicholson's conduct at paragraph 3 of the Allegation was dishonest.
59. The panel next turned to Ms Nicholson's failure to disclose her registration with Social Care Wales. The panel noted that the letter in which Witness A sought information included the following text immediately below the request.

"Please be aware that providing this information is a legal requirement. Rule 8 (b) of the Fitness to Practise Rules 2019, requires you to provide this information by 24 May 2021. Our Rules also require us to let you know that if we do not receive the above information from you without good reason by 24 May 2021 this could result in your suspension or removal from the register and/or a criminal investigation".
60. Ms Nicholson could, therefore, not have been in any doubt as to the importance attached to providing Social Work England with accurate information about any other regulator with which she was registered.
61. Ms Nicholson has not addressed this allegation in her written responses. The panel noted emails from her to a case worker at Social Work England, dated 27 January 2022, in which she wrote *"I registered with Social Care Wales in 2019, finished working there in 2020"* and then, in a further email of the same date a little later, *"Thinking more about this. I didn't renew my registration with Social Care Wales in 2019 2020."*
62. The panel accepted the evidence of Witness B that Ms Nicholson had registered with Social Care Wales, in June 2020, and was sent a reminder of the fee due to retain her registration a matter of days before Witness A's letter.
63. In these circumstances the panel has concluded that it is implausible that Ms Nicholson simply forgot about her registration with Social Care Wales. The panel has concluded that it is more likely than not that Ms Nicholson knew that she was registered with Social Care Wales but chose not to reveal that information when she

was under a professional obligation to do so. In the panel's judgment an ordinary decent person would regard that conduct as dishonest.

- 64. Accordingly, the panel finds that Ms Nicholson's conduct at paragraph 4 of the Allegation was dishonest.
- 65. Paragraph 5 of the allegation is therefore Proved in its entirety.

Finding and reasons on Grounds

- 66. Ms Atkin invited the panel to find that the factual findings it had made amounted to misconduct on the part of Ms Nicholson. She referred the panel to *Roylance v GMC* [2000] 1 AC 311 and to those parts of Social Work England's *Professional Standards* which, she submitted, had been contravened. She emphasised that two matters should be considered as especially serious departures from professional standards; failures to visit vulnerable children in a timely fashion and the panel's findings of dishonesty.
- 67. The legal adviser reminded the panel that the question of misconduct was a matter for its judgment and that appropriate standards of conduct should be judged with reference to Social Work England's *Professional Standards*. Not every departure from those *Standards* would necessarily amount to misconduct. The departure had to be sufficiently serious; whether any particular departure was sufficiently serious to be categorised as misconduct was a matter for the judgement of the panel.
- 68. The panel had regard to Social Work England's *Professional Standards* and considered that the following standards were of relevance in the light of the panel's factual findings:

1.3 Be open, honest, reliable and fair.

2.3 Maintain professional relationships with people and ensure that they understand the role of a social worker in their lives.

3.1 Work within legal and ethical frameworks, using my professional authority and judgement appropriately.

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

3.11 Maintain clear, accurate, legible and up to date records, documenting how I arrive at my decisions.

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

5.2 [Social Workers will not] Behave in a way that would bring into question my suitability to work as a social worker while at work, or outside of work.

5.3 [Social Workers will not] Falsify records or condone this by others.

5.6 Use technology, social media or other forms of electronic communication unlawfully, unethically, or in a way that brings the profession into disrepute.

6.7 Cooperate with any investigations by my employer, Social Work England, or another agency, into my fitness to practise or the fitness to practise of others.

69. The panel considered that Ms Nicholson's failures to complete visits to vulnerable children within the appropriate timeframes was an extremely serious departure from appropriate standards. The timeframes are derived from the Children Act 1989 and were in place because of the risks to which these children were exposed. The panel rejected Ms Nicholson's assertion that the Council adopted a relaxed attitude towards these timeframes. It accepted the evidence of Ms Sylvester, Ms Hornby and Mr Brown that the Council was concerned to ensure compliance. Ms Nicholson's many failures to adhere to the appropriate timeframes exposed the children on her caseload to additional and unnecessary risk.
70. The panel also considered that the findings of dishonesty it had made were particularly serious. Dishonesty is always a serious matter, but the panel recognised that there is a spectrum of seriousness in this context. In the present case, Ms Nicholson's dishonesty had involved the falsification of a case record and a failure to inform her professional regulator, in response to a direct question, of her registration with another statutory regulator. She also lied to both Ms Sylvester and Ms Hornby by confirming that she had visited Family W when she had not. Each of these instances of dishonesty was in the panel's judgment towards the upper end of the spectrum.
71. The panel also considered Ms Nicholson's repeated use of her personal mobile phone to communicate with service users to be a serious departure from Standard 5.6 cited above. The Council's policy in this respect was in place for very good reasons relating to data protection and accountability. Ms Nicholson was a very experienced social worker occupying a role as an Advanced Practitioner. Her disregard of the safeguards created by the policy was itself a serious departure from appropriate standards.
72. The panel concluded that Ms Nicholson's conduct fell far short of each of the standards cited above. Her failures to adhere to these standards were so serious that they amounted to misconduct.

Finding and reasons on current impairment:

73. Ms Atkin referred the panel to Social Work England's guidance on Impairment and Sanction and invited the panel to make a finding of current impairment of fitness to

practise by reason of misconduct. She emphasised that Ms Nicholson's level of insight appeared to have deteriorated with the passage of time in that her written communications increasingly blamed others at the Council and failed to acknowledge her personal responsibility. Ms Atkin also submitted that the public interest required a finding of impairment to be made if the reputation of the profession and proper standards of behaviour were to be upheld.

74. The legal adviser reminded the panel that impairment was to be judged at the present date and that the personal component of impairment involved a careful assessment of the risks of repetition of the misconduct. Regardless of this, however, the panel was also obliged to consider whether the public interest required a finding of impairment to be made on the basis that the absence of such a finding would undermine the reputation of the profession in the eyes of a reasonable and fully informed member of the public.
75. The panel carefully considered the written responses of Ms Nicholson to the concerns which had been raised. There was nothing in those responses to reassure the panel that Ms Nicholson was very unlikely to repeat her misconduct. Although she acknowledged, in her earlier reflective account, that she was wrong, and that it was misconduct to insert false entries in the record, she wrote, apparently by way of mitigating explanation, that she could not remember whether she had visited or not. The panel concluded that her insight into the seriousness of her misconduct in this respect was seriously deficient.
76. Ms Nicholson has not addressed at all in her written responses the further dishonesty in respect of her registration with Social Care Wales. This involved misleading her professional regulators and for that reason was particularly serious.
77. The panel was also very concerned to note from the documents submitted by Ms Nicholson that her recent period of employment with North Somerset Council ended abruptly, on 6 November 2023, when the Council terminated her employment over issues of trust. The Team Manager responsible for Ms Nicholson had written that her employment was terminated because "*Dawn was not able to provide a satisfactory response to our concerns and due to a breakdown of professional trust, Dawn was given one week's notice*".
78. In all the circumstances the panel could not be confident that issues relating to dishonesty would be highly unlikely to recur in the future. It concluded that there was a significant risk of repetition of this kind of misconduct.
79. The panel was also concerned about Ms Nicholson's responses to her failures to carry out visits within the appropriate timescales. In this regard she had sought to deflect responsibility by asserting that her caseload was excessive and in any event the Council was lax about timescales. The panel found both points to be without foundation. The panel remained concerned that if Ms Nicholson were to find herself in a similar position in future, similar failings would occur.

80. Ms Nicholson has offered little explanation for her use of her personal mobile phone other than that she realised that it was against policy but “*in the middle of practising it seemed like the right thing to do at the time*”. The panel had no confidence that similar misconduct would not occur again in the future.
81. The panel therefore concluded that Ms Nicholson’s current fitness to practise is impaired by these personal considerations.
82. The panel was also satisfied that a finding of impairment is necessary to promote and maintain public confidence in social workers in England and proper professional standards. The panel concluded that a reasonable and fully informed member of the public would be understandably concerned if a finding of impairment was not made in the case of a social worker who had been found, on more than one occasion, to have behaved dishonestly and whose failure to visit vulnerable children increased the risks to which those children were subject.
83. The panel therefore concluded that a finding of impairment is also required on the grounds of public interest.

Decision and reasons on sanction

84. Ms Atkin reminded the panel of Social Work England’s *Impairment and Sanctions Guidance* and submitted that a suspension order might be an appropriate sanction. Ms Atkin acknowledged that the panel had made serious findings of dishonesty but pointed out that, in relation to the visit which had not taken place, there was no evidence of a wider pattern of dishonesty so that that instance of dishonesty appeared to have been stimulated by the fact that Ms Nicholson’s practice was under scrutiny. The failure to inform Social Work England of her registration with Social Care Wales had not occasioned any risk.
85. Ms Atkin acknowledged that there appeared to have been concerns at North Somerset Council, but these had not led to any referral.
86. Ms Atkin also reminded the panel that there had been no previous regulatory concerns in a career spanning some 20 plus years.
87. The legal adviser reminded the panel that its function was not to punish Ms Nicholson but to arrive at a proportionate outcome to the case having regard to its responsibility to protect the public and to uphold and maintain proper standards of conduct. The relevant principles could be found in Social Work England’s *Impairment and Sanctions Guidance* and the panel should seek to identify aggravating and mitigating factors so as to ensure a proportionate approach. Sanction should be considered in ascending order, beginning with the least restrictive option.
88. The panel first considered aggravating factors. It noted that there were a number of failures to observe important timescales, and, on one occasion, a child had been badly

let down when an expected visit did not take place. Although in her first reflective piece Ms Nicholson had acknowledged her fault in relation to the false entries she had made in the records she had also sought to deflect blame by referring to her case load and attitudes at the Council. The panel had found that these excuses were without merit and demonstrated that Ms Nicholson has deficient insight. She had also shown, in the panel's judgment, insufficient evidence of remorse.

89. The panel was unable to find any significant mitigating factors in relation to the matters which it had found proved.
90. It recognised however that there was no previous regulatory history in a long career, and it was evident that Ms Nicholson was capable of good, safe practice. Her reports from North Somerset, until an issue arose, were very positive and she was regarded as a valued member of the team. Although it was clear from the information before the panel that an issue had arisen at North Somerset, the panel reminded itself that it was not in possession of all the details in respect of that issue and it had not caused North Somerset to raise a formal concern.
91. The panel was in no doubt that a final order was necessary.
92. The panel was also clear that a warning would be insufficient to protect the public and would also not meet the public interest in view of the seriousness of the panel's findings.
93. The panel next considered a conditions of practice order. It concluded that such an order would not be appropriate in view of the findings of dishonesty it had made. It was also of the view that a conditions of practice order would not be sufficient to meet the public interest.
94. The panel next considered a suspension order. It noted, from Paragraph 137 of the Guidance, that suspension might be appropriate where *"the concerns represent a serious breach of professional standards; the social worker has demonstrated some insight and there is evidence that the social worker is willing and able to resolve or remediate their failings"*. Ms Nicholson has shown a commitment to her profession in her written communications in relation to these proceedings and the panel considered that with time Ms Nicholson could translate this commitment into safe and professional practice by remediating her deficiencies. Ms Nicholson had shown in her reflective piece some, albeit limited, insight and there was evidence in her written communications that she enjoyed and valued her role as a registered social worker.
95. The panel also bore in mind that there was a public interest in retaining on the register an experienced social worker who had had a long career without any previous regulatory involvement and who had in the past been capable of practising effectively.
96. The panel recognised that this was a case which was finely balanced between suspension and removal. Accordingly, it carefully considered the guidance in relation to removal at paragraph 149 and succeeding paragraphs. It noted that a removal order *"must be made where the decision makers conclude that no other outcome would be*

enough to (do one or more of the following) protect the public; maintain confidence in the profession and maintain proper professional standards for social workers in England". The panel concluded that this case, although serious, did not fall into that category.

97. The panel gave weight to Ms Nicholson's previous career and the reflective piece she had written which did show some insight. It concluded on balance that this was a case which could properly be dealt with by a significant period of suspension. In the panel's assessment this would protect the public, enable Ms Nicholson to reflect on the steps she needed to take to improve her practice and satisfy the public interest in sending a clear message that misconduct of this type would attract a significant sanction. In all the circumstances the panel concluded that a period of suspension of 12 months was the appropriate and proportionate sanction for this misconduct.
98. This order will be reviewed prior to its expiry. At any review the reviewing panel would be assisted by:
- Ms Nicholson's attendance;
 - a detailed reflective statement demonstrating clear insight into the implications of her misconduct;
 - evidence of relevant training in relation to the importance of statutory timeframes and time management;
 - training in relation to safeguarding and assessment of risk;
 - training in information governance;
 - relevant professional references and testimonials.
99. The panel therefore directs that Ms Nicholson's registration is suspended for a period of 12 months.

Interim order:

100. In light of its findings on sanction, the panel next considered an application by Ms Atkin for an interim suspension order to cover the appeal period before the final order becomes effective.
101. The panel was mindful of its earlier findings and decided that it would be wholly incompatible with those earlier findings not to impose an interim order. The panel had identified a significant risk of repetition if Ms Nicholson were permitted to practise without restriction.
102. Accordingly, the panel concluded that an interim suspension order is necessary for the protection of the public. When the appeal period expires, this interim order will come to

an end unless an appeal has been filed with the High Court. If there is no appeal, the final order of suspension will take effect when the appeal period expires.

Right of appeal:

103. Under Paragraph 16(1)(a) of Schedule 2 of the regulations, the social worker may appeal to the High Court against the decision of adjudicators:
 - 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.
104. Under Paragraph 16(2) of Schedule 2 of the regulations 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.
105. Under Regulation 9(4) of the regulations this order may not be recorded until the expiry of the period within which an appeal against the order could be made, or where an appeal against the order has been made, before the appeal is withdrawn or otherwise finally disposed of.
106. This notice is served in accordance with Rules 44 and 45 of the Social Work England Fitness to Practice Rules 2019 (as amended).

Review of final orders:

107. 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

108. 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:

109. 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>.