

# Social worker: Lea King

## Registration number: SW105788

### Fitness to Practise

### Final Order Review Meeting

Date of Meeting: 09 October 2024

Meeting venue: Remote Meeting

Final Order being reviewed: Suspension Order – (expiring 20 November 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 first review of a final order originally imposed as a suspension order for a period of 18 months by a panel of adjudicators on 20 April 2023.
2. Ms King did not attend and was not represented.
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
Karen McArthur	Chair
Beverley Blythe	Social worker adjudicator

Hearings team/Legal adviser	Role
Tom Stoker	Hearings officer
Jo Cooper	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 04 September 2024 addressed to Ms King at her postal address and email address as it appears on the Social Work England Register;
  - An extract from the Social Work England Register detailing Ms King’s registered postal address and email address;
  - A copy of a signed Statement of Service, on behalf of Social Work England, confirming that on 04 September 2024 – more than seven days before this review – the writer sent by email and special delivery to Ms King at her registered email address: Notice of Hearing and related document; and
  - A copy of the Royal Mail Proof of Delivery indicating a document signed for by “Kin” at 11:52 hours on 05 September 2024.

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 King in accordance with Rules 44 and 45 of the FTP Rules 2019.

### Proceeding with the final 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 12 September 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 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 King. This included reference to the cases of *R v Jones [2002] UKHL5*; *General Medical Council v Adeogba [2016] EWCA Civ 162*. 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."*

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

- a. Ms King was served with the Notice of Hearing in which it was set out that, in her absence, the final order review may take place as a meeting;
- b. Ms King has not engaged with the fitness to practice process since before the Final Hearing. As such, the panel consider that she has voluntarily absented herself;
- c. Ms King has not requested to adjourn the review;
- d. Any adjournment would not guarantee the attendance of Ms King in the future;

- e. The review is a statutory review; and
- f. The continuation of the meeting was important in order to consider the protection of the public.

### Review of the current order:

- 11. This final order review hearing 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).
- 12. The current order is due to expire on 20 November 2024.

### The regulatory concerns which resulted in the imposition of the final order were as follows:

*Whilst registered as a social worker you,*

- 1. *Accessed and/or attempted to access the following case records on one or more occasion as set out in Schedule 1 without a legitimate and/or professional reason to do so:*
  - a. *Case record 2003752 between 9 November 2020 to 24 March 2021.*
  - b. *Case record 2035583 on 14 April 2021.*
  - c. *Case record 1270313 between or on 9 November 2020 and 14 April 2021.*

#### Schedule 1

##### Case record 2003752

- (i) *9 November 2020 at 11.07*
- (ii) *24 November 2020 at 11.35*
- (iii) *24 March 2021 at 11.04*

##### Case record 2035583

- (i) *14 April 2021 at 17.20*

##### Case record 1270313

- (i) 9 November 2020 at 11.07*
- (ii) 24 November 2020 at 11.35*
- (iii) 10 March 2021 at 16.20*
- (iv) 12 March 2021 at 15.07*
- (v) 24 March 2021 at 10.59*
- (vi) 24 March 2021 at 11.04*
- (vii) 6 April 2021 at 09.11*
- (viii) 6 April 2021 at 09.12*
- (ix) 6 April 2021 at 09.27*
- (x) 6 April 2021 at 09.28*
- (xi) 6 April 2021 at 09.29*
- (xii) 6 April 2021 at 14.27*
- (xiii) 6 April 2021 at 14.28*
- (xiv) 6 April 2021 at 17.26*
- (xv) 7 April 2021 at 08.49*
- (xvi) 8 April 2021 at 08.39*
- (xvii) 9 April 2021 at 09.13*
- (xviii) 12 April 2021 at 08.11*
- (xix) 13 April 2021 at 08.44*
- (xx) 14 April 2021 at 08.50*
- (xxi) 14 April 2021 at 17.20*

*2. Whilst employed as a social worker by Suffolk County Council during 2015 – 10 June 2021 you:*

*2.1 Had a personal relationship with Service User A and did not disclose the potential conflict of interest to your supervisor or line manager when you should have done so.*

*Your conduct at paragraphs (1) – (2.1) amounts to the statutory ground of misconduct.*

*By reason of your misconduct your fitness to practise as a social worker is impaired.*

The final hearing panel on 20 April 2023 determined the following with regard to impairment:

53. *“The panel found that Ms King’s misconduct was not an isolated incidence of an error of judgement and that it amounted to numerous individual acts of accessing information without any professional reason over a period of five months. Her non-disclosure of her relationship with Service User A had been sustained over at least some weeks. It found that Ms King had expressed some remorse to her employers, but only after her relationship with Service User A and the improper accessing of information was known to her employer.*
54. *The panel found that the first three questions referred to in the Shipman report guidance were relevant and illustrated the extent of Ms King’s misconduct. It had no doubt that Service User A’s family had been put at risk of harm, that the misconduct amounted to a breach of fundamental tenets of the profession and that it had the potential to bring the profession into disrepute.*
55. *The panel found that Ms King’s insight into her misconduct was limited and that it was related to her sense of shame and embarrassment, and not to its effect on service users, her colleagues, her profession, and the public. The panel found that the misconduct it had found was capable of remedy but that Ms King had provided no evidence of taking any steps to remedy it. The panel accepted that Ms King’s ability to remedy her misconduct was limited by her being subject to an interim order of suspension but found that she could have made some steps towards doing so, for instance by compiling a reflective piece of work. It was clear to the panel that in the absence of proper insight or attempts at remediation, the risk of Ms King repeating her misconduct was high. The panel therefore found that Ms King’s misconduct posed a risk to the public and that her fitness to practise is currently impaired.*
56. *The panel also considered whether a finding of impairment was necessary to set and maintain standards in the profession and to protect its reputation. The panel had no doubt that members of the public, knowing that a social worker had accessed confidential information about the family of someone she was in a relationship with and who had failed to disclose that relationship to her employers, would be concerned if no restriction was placed on her practice. The panel therefore found that a finding of impaired fitness to practise was also necessary in the public interest.”*

The final hearing panel on 20 April 2023 determined the following with regard to sanction:

70. *“The panel began by considering what mitigating and aggravating factors it should take into account. It found that Ms King’s misconduct was aggravated by her repeated breaches of confidentiality over a period of five months, a failure to disclose her relationship with Service User A until after her employer became aware of it, the vulnerability of Service User A’s family and the failure by Ms King as a senior social worker to comply with the basic tenets of her profession.*
71. *In mitigation the panel took into account that Ms King had no previous regulatory history and the early admissions made by her to her employer and Social Work England. It took into account Ms Page’s evidence that Ms King was a good social worker and was valued within her department.*
72. *The panel considered whether the fact that Service User A’s family suffered no actual harm as a result of Ms King’s activities was a mitigating factor. It drew a distinction between conduct aimed at obtaining information with the intention of passing it on to Service User A, which might have caused his family harm, and breaches of confidentiality which were to satisfy Ms King’s personal curiosity. The evidence the panel had was that no actual harm was caused to Service User A’s family, from which it inferred that she had not passed information to him. Whilst Ms King’s misconduct was serious whatever her motive, the panel found a degree of mitigation in her not acting with the intention of passing information to Service User A.*
73. *The panel considered the sanctions open to it in ascending order of seriousness. It concluded that taking no action, providing Ms King with advice or issuing a warning to her were insufficient and inappropriate. No restriction would be placed on Ms King’s practice by any of those actions and the panel had found that Ms King’s misconduct posed a risk to the public. The panel considered that not imposing a restrictive sanction would not meet the need to protect the public or the public interest.*
74. *The panel then considered whether imposing a conditions of practice order was a sufficient and appropriate sanction. It concluded that it was not. The panel took into account the guidance on imposing conditions of practice. It had no evidence before it of whether Ms King had any intention of returning to social work and due to her lack of engagement with Social Work England since October 2021 there was nothing to indicate that Ms King would comply with a conditions of practice order. The panel could not envisage conditions that would address Ms King’s misconduct, as she was trained in GDPR, had a prompt about accessing the case management system each time she logged on and she must have been aware of her serious breaches of professional standards. The panel was aware that social workers in the*

*course of their work have constant access to a case management system and any conditions would require direct supervision of her use of the system, which was unworkable and would amount to suspension.*

75. *The panel then considered the guidance provided concerning any suspension of Ms King from the register. It noted that Ms King had provided no evidence that she was willing and able to remedy her failings and the panel had found her insight to be limited. However, the panel had been told by a witness that Ms King was a good social worker and took account of the public interest in returning a good social worker to safe practice. In considering the sanction of suspension, the panel looked at the guidance on removal from the register. It noted that the advice at paragraph 148 of the guidance to the effect that an order of removal was essential if no other course would protect the public interest. The panel's view was that the public could be protected, and the public interest met, by a sanction less than removal from the register and that removal from the register would be disproportionate. It considered that Ms King's misconduct was remediable if she made an effort to do so with an intention of returning to social work. The panel concluded that an order of suspension was appropriate, proportionate and would provide Ms King with an opportunity of working towards return to practise.*
76. *The panel decided that the appropriate period of suspension was 18 months. It considered that this would provide time for Ms King to remedy her deficiencies if she chose to do without adding unduly to the deskilling resulting from a long absence from social work.*
77. *The panel considers that a reviewing panel would be aided by:*
  - a. *Ms King's attendance at any review hearing.*
  - b. *A piece of reflective writing from Ms King, focusing on accessing records, and dealing with conflicts of interest, and detailing the impact of her actions on service users, her colleagues and the wider profession. This piece should be completed using one of the established reflective writing models e.g. Gibbs.*
  - c. *Testimonials from persons of good standing, who know about these matters, in whatever occupation Ms King is now engaged, whether paid or unpaid.*
  - d. *Evidence of having kept up to date with training requirements focusing on return to practise."*



## Social Work England submissions:

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

*"Subject to any evidence of further insight or remediation provided prior to the review, Social Work England will invite the Panel to consider imposing a Removal Order.*

*The final hearing Panel set out four recommendations that would assist a review hearing Panel in making their determination, namely:*

- a. Attendance at any review hearing.*
- b. A piece of reflective writing from the Social Worker, focusing on accessing records, and dealing with conflicts of interest, and detailing the impact of her actions on service users, her colleagues and the wider profession. This piece should be completed using one of the established reflective writing models e.g. Gibbs.*
- c. Testimonials from persons of good standing, who know about these matters, in whatever occupation the Social Worker is now engaged, whether paid or unpaid.*
- d. Evidence of having kept up to date with training requirements focusing on return to practise.*

*The Social Worker has not engaged throughout the duration of the current order, despite being encouraged to do so by her Case Review Officer on four separate occasions. The Social Worker did not attend the final hearing, and (save for a brief telephone discussion) has not communicated with Social Work England since October 2021.*

*Whilst it is not currently known if the Social Worker intends to attend the review hearing, she has not engaged with the other recommendations of the final hearing Panel and there is no new material to indicate that she has developed insight or taken steps to remediate her practice.*

*The review is invited to find that the Social Worker has not discharged her persuasive burden to demonstrate her fitness to practise. Accordingly, the review Panel is invited to find that the Social Worker's fitness to practise remains impaired.*

*It is submitted that there is no reasonable basis to believe the Social Worker will engage in future so as to discharge her burden. Accordingly, no order short a Removal Order would satisfy the need to protect the public, as well as the wider public interest (which includes not incurring unnecessary costs in holding multiple review hearings in circumstances such as this)."*

### Social worker submissions:

14. Ms King did not attend to give evidence, nor provided written submissions for the panel's consideration.

### Panel decision and reasons on current impairment:

15. In considering the question of current impairment, the panel undertook a comprehensive review of the final order in light of the current circumstances. 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*".
16. The panel had regard to all of the documentation before it, including Social Work England's written submissions.
17. 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.
18. The panel first considered whether Ms King's fitness to practise remains impaired. The panel determined that Ms King was still impaired for the following reasons:
  - a. Ms King has not demonstrated any insight or provided any evidence of remediation.
  - b. She has not engaged substantively with the Social Work England fitness to practise procedure since prior to her Final Hearing. Consequently, she has not been able to demonstrate that she is no longer impaired.
  - c. The previous Final Order Review Panel provided Ms King with guidance on how her practice may be remediated, which was clear and specific. However, Ms King has not engaged with any of this guidance.

Given these reasons, the panel considered that Ms King's practice is still impaired and there is a likelihood of repetition, and consequent risk to the public, should she be permitted to practise unrestricted.

19. The panel also considered that public confidence, and proper professional standards, in the social work profession would be undermined if a finding of impairment was not made under these circumstances.

## Decision and reasons on sanction:

20. Having found Ms King's fitness to practise to be currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel had regard to the submissions made along with all the information and accepted the advice of the legal adviser.
21. The panel considered the 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.
22. The panel was mindful that the purpose of any sanction is not to punish Ms King, 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 King's interests with the public interest.
23. The panel decided it would not be appropriate to take no further action or issue a warning. It had made a finding of impairment and any sanction that does not restrict Ms King's practice is not appropriate and would not protect the public.
24. 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 King's lack of engagement, insight and remediation. The panel considered that allowing Ms King to practise, even with restrictions, may place service users and the public at risk of harm.
25. The panel next considered whether a suspension order would be an appropriate and proportionate sanction. The panel noted paragraph 138 of the Social Work England *"Impairment and Sanction Guidance"* dated 19 December 2022 which sets out:
- "Suspension is likely to be unsuitable in circumstances where (both of the following):*
- *the social worker has not demonstrated any insight and remediation*
  - *there is limited evidence to suggest they are willing (or able) to resolve or remediate their failings"*
26. The panel considered that:
- a. Ms King has not demonstrated any insight and remediation.
  - b. there is limited evidence to suggest Ms King is willing (or able) to resolve or remediate her failings.
27. Consequently, the panel considered that a suspension order would not be an appropriate and proportionate sanction.
28. The panel considered that it was within its powers to give Ms King a removal order given that, in accordance with Article 13, Schedule 2 of the Social Workers Regulations 2018, Ms King's

fitness to practise was impaired on the grounds set out in regulation 25(2)(a) (misconduct). The panel considered a removal order to be an appropriate and proportionate sanction, given:

- a. Ms King's lack of engagement with the fitness to practise process for an extended period of time;
- b. Ms King's lack of evidence of any insight and remediation;
- c. Ms King 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 King'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).

### Review of final orders:

33. Under regulation 15(1), 15(2) and 15(3) of Schedule 2 of The Social Workers Regulations 2018 (as amended):

- 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).

34. Under Rule 16(aa) of the Fitness to Practise Rules 2019 (as amended), 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

35. 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:

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