

Social worker: Katherine James

Registration number: SW88813

Fitness to Practise

Final Order Review meeting

Date of meeting: 20 November 2024

Meeting venue: Remote meeting

Final order being reviewed: Suspension Order – (expiring 29 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 second review of a final suspension order originally imposed for a period of 6 months by a panel of adjudicators on 28 April 2023. The final order was reviewed on 18 October 2023 where the suspension order was extended by a further 12 months. A review had been listed on 18 October 2024, but did not take place as the panel sitting on that occasion was not satisfied that good service had been made and the matter was postponed.
2. Ms James 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.

Adjudicators	Role
Andy Yeadon	Chair
Simone Nembhard-Francis	Social worker adjudicator

Hearings team/Legal adviser	Role
Tom Stoker	Hearings officer
Robyn Watts	Hearings support officer
Scott McDonnell	Legal adviser

Service of notice:

4. The panel of adjudicators (the panel) was provided with the hearing bundle (83 pages) and the service and supplementary bundle (26 pages).
5. The panel of adjudicators had careful regard to the documents contained in the final order review service bundle as follows:
 - A copy of the notice of the final order review hearing dated 21 October 2024 and addressed to Ms James at her email address which she provided to Social Work England;
 - An extract from the Social Work England Register as of 21 October 2024 detailing Ms James' registered email address;
 - A copy of a signed statement of service, on behalf of Social Work England, confirming that on 21 October 2024 the writer sent by email to Ms James at the email address referred to above: notice of hearing and related documents;

6. The panel also noted an email within the service bundle from Ms James dated 5 November 2024 in which she asked that a previous written submission that she had made be provided to the panel for today's hearing.
7. The panel heard and accepted the advice of the legal adviser in relation to service of notice.
8. Having had regard to the Social Work England Fitness to practise rules 2019 (as amended) (the 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 James in accordance with Rules 14, 15, 44 and 45.

Proceeding with the final order review as a meeting:

9. The notice of final order review informed Ms James that the review would take place as a meeting. 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 5 November 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."

10. The panel noted that Ms James had not completed the hearing participation form. However it did take into account the email of 5 November 2024 from Ms James asking for previous written submission to be provided to the panel.
11. 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 conduct the review in the form of a meeting in accordance with Rule 16(c).

Review of the current order:

13. 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).
14. The current order is due to expire at the end of 29 November 2024.

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

15. The original panel at the final hearing found all of the factual particulars proved (following late amendment to particular 2, after the panel had initially announced particular 2 as not proved).

Whilst registered as a social worker:

1. ...*[did not result in a finding of impairment]*
2. *Between 22 November 2018 and 3 April 2019, you provided inaccurate information for a Special Guardianship Order report in respect of the applicants*

Person A and Person B in that you included:

- 2.1 *A report of an interview with nominated referee Person C, despite having not contacted Person C to obtain that reference.*
- 2.2 *A report of an interview with nominated referee Person D, despite having not contacted Person D to obtain that reference.*
3. *Your actions set out at 2 were dishonest.*
4. ...
5. *The matters set out at 2 and/or 3 amount to the statutory ground of misconduct.*
6. *As a result of your [...] misconduct your fitness to practise is impaired.*

The previous final order review panel on 18 October 2023 determined the following with regard to impairment:

16. *“The panel noted that the original panel had concluded that Ms James had shown “minimal remorse about her conduct, and nor had she shown any insight. In particular, the panel noted that Ms James had not provided any reflective statement indicating an understanding of why the inclusion of the inaccurate information in the report was wrong, the potential adverse consequences of including it and what she would do differently in the future”. The original panel noted that in light of the minimal remorse and lack of insight, together with the length of time Ms James had been out of practice, the risk of repetition remained.*
17. *The panel noted the recommendations set out in the original panel’s decision signposting for Ms James what may assist a future reviewing panel in assessing whether or not her fitness to practise remained impaired. These included providing evidence of insight, remorse and remediation. The recommendations suggested that the evidence may take the form of a reflective statement setting out her understanding of the potential consequences of providing inaccurate information and the impact of dishonesty on public confidence in the profession; evidence of any CPD, relevant*

experience or training undertaken; and references and testimonials from previous or current professional colleagues.

- 18. The panel noted that Ms James had not provided any of the recommended information to assist the panel. Consequently, the panel had no evidence of her current insight or any steps she had taken to remediate her misconduct. The panel acknowledged that Ms James' had denied providing inaccurate information or doing so dishonestly, as she had been entitled to do. However, the panel had no information that in the period since those findings, Ms James had reflected on those findings. In particular, it had no evidence to demonstrate that Ms James understood that a social worker providing inaccurate information in care proceedings or acting dishonestly, would damage public confidence in social workers generally and damage the reputation of the profession. As a result, the panel considered that there was no change to Ms James' lack of insight as found by the original panel.*
- 19. The panel noted that in her written submissions of 29 September 2023, Ms James stated that she had continued with her CPD. However, Ms James had not provided any evidence of the CPD undertaken, or demonstrated that it was targeted towards the risks identified by the original panel. The panel bore in mind that the suspension order meant that Ms James was limited in the experience and training she could undertake in social work. Nevertheless, it was mindful that Ms James had provided no evidence of any training or relevant employment experience, which may evidence some practical remediation. The panel noted that Ms James had been out of social work for some four years. In the absence of evidence of ongoing CPD or other remediation, the panel was not satisfied that Ms James had kept her knowledge and skills up to date, or had taken steps towards remediating her misconduct.*
- 20. Given the absence of relevant information as recommended by the original panel, the reviewing panel was not satisfied that Ms James had met the persuasive burden on her to demonstrate that she was fit to practise unrestricted. The panel therefore concluded that there remained a real risk of repetition. Accordingly, the panel concluded that Ms James' fitness to practise remained impaired in respect of the personal element.*
- 21. The panel was mindful of the importance of the public interest element, in particular through promoting and maintaining public confidence in the social work profession as well as declaring and upholding proper standards of conduct and behaviour. Given that the original facts found proved included dishonestly providing inaccurate information, and Ms James' had not taken steps to remediate her misconduct, the panel concluded that public confidence would be undermined if no finding of impairment were made in this case.*
- 22. Accordingly, the panel concluded that Ms James' fitness to practise remained impaired in respect of the public element."*

The previous final order review panel on 18 October 2023 determined the following with regard to sanction:

23. *“The panel considered the submission by Social Work England that a removal order should be imposed on the expiry of the current suspension order on the basis of a persistent lack of insight and being unwilling or unable to remediate as they do not wish to practise as a social worker in the future. The panel noted that the submissions referenced an email received from Ms James on 10 August 2023, to the effect that she did not intend to return to social work. The panel noted the latest submissions of Ms James of 29 September 2023, to the effect that she would ask that a removal order not be granted and although her current intention was not to return to practice, she may in the future.*
24. *The panel was mindful that the purpose of any sanction is not to punish Ms James, 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 James’ interests with the public interest.*

No action, advice or warning

25. *The panel considered that none of these options would be sufficient to protect the public or the wider public interest. It was mindful of its finding that that Ms James’ fitness to practise remains impaired and that there is a consequential risk to the public. The panel bore in mind that none of these options would restrict Ms James’ practice, and given the ongoing risk of repetition they would be insufficient to protect the public and to meet the public interest.*

Conditions of practice order

26. *The panel bore in mind that Ms James had not used the period of the current suspension order to reflect, develop her insight or to remediate her practice. It was mindful that she appeared to minimise her misconduct and had not yet demonstrated that she understood the seriousness of her actions or how they may damage public confidence in the profession. In all the circumstances, the panel was not satisfied that Ms James would be willing to comply with a conditions of practice order at this time.*

Suspension order

27. *The panel concluded that the appropriate and proportionate sanction is a suspension order.*
28. *The panel was satisfied that a suspension order would prevent Ms James from practising during the suspension period, which would therefore protect the public and the wider public interest in that time. The panel considered that it would give Ms James a further opportunity to reflect on her actions and to follow the recommendations of the*

original panel. These recommendations were set out to guide her in how she may demonstrate insight and remediation to a level where her fitness to practise is no longer impaired.

29. The panel determined that the suspension order should be imposed for a period of 12 months. The panel was satisfied that this period was appropriate because Ms James had thus far only demonstrated limited engagement with the process and the suspension period reflected the amount of time that she may need to develop the necessary insight, remorse and remediation.

30. This panel cannot bind a future reviewing panel. However, it considered that the recommendations of the original panel remained relevant and may assist Ms James in identifying the steps she might take in order to demonstrate her progress towards achieving sufficient insight and remediation:

Ms James' continued engagement with Social Work England;

A reflective statement from Ms James which should include details of remorse, insight and remediation;

[PRIVATE]

An update on Ms James' employment circumstances and future plans;

An update on Ms James' continuous professional development record and any relevant study, training or experience in the workplace that Ms James has recently completed;

and

Any relevant professional references or character testimonials.

31. Given that Social Work England had submitted that a removal order was the appropriate sanction, the panel went on to consider whether such an order was the only appropriate and proportionate sanction the circumstances of this case. The panel noted that the original panel had identified a suspension order of 6 months as being the least sanction required to mark the seriousness of the case. The panel was mindful that Ms James had not provided any evidence to demonstrate that she had developed her levels of insight or remediation since that time. However, the panel considered that the progression from a 6 months suspension order to a removal order was an unnecessary escalation in the circumstances. It bore in mind that it must impose the least serious sanction required to protect the public, maintain public confidence and uphold professional standards. The panel considered that a removal order at this time would be disproportionately punitive and might appear to have been imposed because Ms James had not taken active steps to evidence development of insight and remediation."

Social Work England submissions:

32. The panel read submissions from Capsticks LLP on behalf of Social Work England, which sought a Removal Order.

33. Capsticks LLP submitted that:

“Subject to any further evidence received prior to, or at this upcoming review, Social Work England will invite the Panel to find that the Social Worker’s fitness to practise remains impaired, and to direct removal from the Register.

The Social Worker’s brief submissions (dated 9 August and 4 October 2024) represent the only engagement she has had with Social Work England since the last review. The submissions touch on two of the six recommendation areas (health and employment). The submissions contain some further denials of the substantive facts, however, in the 4 October email the following was said: “[I] acknowledge that [I] should have been honest about my accident, the potential of a charge and the possibility of a court appearance”.

Based on the Social Worker’s level of engagement at the Final Hearing and subsequently, the prospects of her demonstrating full remediation appear to be weak.

The Social Worker has chosen to maintain some (minimal) level of engagement and has not ruled out a future return to social work practice. The Social Worker has remarked that she may feel she wants to return in 2027 (four years from 2023). This is far from certain, and, at any rate, the Panel may take the view that this would be too long a period out of practice to countenance prolonging the Final Suspension Order for. There is no benefit in perpetually renewing a final order if there is no sign of a commitment to return to practice. There is also a significant risk of further de-skilling.

Paragraph 149 of the sanctions guidance states that a Removal Order may be appropriate in cases involving:

persistent lack of insight into the seriousness of their actions or consequences; and

social workers who are unwilling and/or unable to remediate (for example, where there is clear evidence that they do not wish to practise as a social worker in the future.

Social Work England submit that the Social Worker has had sufficient time in which to remediate and demonstrate a commitment to return to practice.

The Panel may take the view that, unless the Social Worker shows significantly more willingness to remediate and an indication of her future intention following service of the notice of hearing, in the 28 days afforded prior to the review, then a Removal Order would now be the appropriate and proportionate sanction.

Social Worker submissions:

34. Within Ms James’ written submissions she indicated that she continued to work on updating her CPD. She acknowledged that she should have been honest about matters which formed the basis of the first allegation, and which the hearing panel did not make a finding of impairment on.

35. Ms James informed the panel that she wished to remain registered as she may wish to return to social work in the future.

Panel decision and reasons on current impairment:

36. 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 previous panels. 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'.

37. The panel had regard to all of the documentation before it, including the decision and reasons of the previous review panel. The panel also took account of the submissions made by Capsticks LLP on behalf of Social Work England and those made by Ms James.

38. The panel heard and accepted the advice of the legal adviser. The panel was reminded that a social worker's fitness to practise is impaired if they pose a risk to public safety, or if their conduct or performance undermines the confidence the public is entitled to place in all social workers in England. A social worker's fitness to practise may also be impaired if their actions make it necessary to send a public message about the standards expected of social workers.

39. If the panel decided that Ms James' practice is currently impaired then it should then consider what sanctions are available and refer to Social Work England's "Impairment and Sanctions Guidance". The panel must start from the least restrictive sanction. Insight and remediation are important factors.

40. The panel first considered whether Ms James' fitness to practise remains impaired

41. The panel noted that Ms James had not provided any substantive evidence of reflection including the impact of her conduct on Service Users and failing to meet the standards expected of a Social Worker. Ms James had been suspended from her practice for 18 months and had not taken the opportunity to provide more reflection.

42. Ms James had also failed to adopt the advice of the previous review panel and provide material, which may have assisted this panel in its decision making.

43. Ms James had not provided evidence of remediation. She had failed to engage in any meaningful way or provide the panel with any information to show any insight. Ms James had failed to take the opportunity to provide the panel with evidence of training or a reflective piece of work as recommended by the previous panel. The panel considered that in light of all of these circumstances there was a high risk of repetition and a risk of harm to the public including public confidence.

44. The panel concluded that Ms James had failed to demonstrate insight or any remorse. The panel considered that she had failed to understand the seriousness of her actions.

45. The panel decided that Ms James' practice remains currently impaired. This was on the grounds of public protection including public confidence.

Decision and reasons:

46. Having found Ms James' 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 submissions made along with all the information and accepted the advice of the legal adviser.
47. The panel considered the submissions made by Capsticks LLP, on behalf of Social Work England, during which they invited the panel to consider imposing a Removal Order. It noted the submissions made by Ms James that she wished to continue practising as a social worker at some point in the future. The panel also took into account the 'Impairment and sanctions guidance' published by Social Work England.
48. The panel was mindful that the purpose of any sanction is not to punish Ms James, 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 James' interests with the public interest.

No action, advice or warning, allow the current suspension order to lapse upon its expiry

49. The panel noted that none of these measures would restrict Ms James' ability to practise. As such they were not appropriate or sufficient to address the concerns raised due to the nature and seriousness of Ms James' impairment which has not yet been remedied
50. Furthermore, none would be sufficient to protect the public, maintain public confidence and uphold the reputation of the profession.

Conditions of practise order

51. The panel went on to consider whether it would be possible to replace the current suspension order with a conditions of practise order.
52. The panel could not identify any conditions of practice that would be sufficient to protect the public or that would be practicable noting the wide ranging nature of the concerns found. Ms James had not engaged with the proceedings and the panel were not confident she would conform to any conditions of practise. Also because she does not intend to work as a social worker in the immediate future conditions would not be workable or appropriate.

Extend the current suspension order with effect from the expiry of the current order

53. The panel considered whether the current suspension order should be extended for a further period of time.

54. The panel did not consider that extending the current suspension order would sufficiently address the circumstances before the panel including that Ms James had failed to demonstrate any remediation or insight during these proceedings and during the period of suspension of 18 months. The panel decided that no purpose would be served in extending the current suspension order in light of this. Ms James had not provided evidence of training or a reflective piece as recommended by previous panels and no effort had been made to provide evidence of insight or remediation. The panel considered that there remains a high risk of repetition and a risk to the public should Ms James be permitted to practise without restriction.

Removal order

55. The panel was satisfied it could consider that a removal order was available to the panel as Ms James' fitness to practise was originally found impaired on the basis of one or more grounds as set out in regulation 25(2)(a), (c), (d), (f) or (g).

56. 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. The panel took the view that a removal order would be appropriate because Ms James had demonstrated a persistent lack of insight into the seriousness of her actions or consequences. In addition Ms James had shown that she was unwilling or unable to remediate.

57. The panel therefore decided to impose a new order namely a removal order with effect from the expiry of the current order.

Right of appeal:

58. 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.

59. 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.

60. 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.

61. This notice is served in accordance with Rules 44 and 45 of the Fitness to Practise Rules 2019 (as amended).

Review of final orders:

62. 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).

63. 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

64. 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>