

Social worker: Maria Baxter

Registration number: SW122500

Fitness to Practise

Final Order Review Hearing

Date of meeting: 03 January 2025

Hearing venue: Remote hearing

Final order being reviewed:

Conditions of practice order – (expiring 14 February 2025)

Hearing Outcome: Impose a new order namely a suspension order for 12 months with effect from the expiry of the current order

Introduction and attendees:

1. This is the first review of a final conditions of practice order originally imposed for a period of 18 months on 15 August 2023 by Case Examiners appointed by Social Work England.
2. Ms Baxter attended and was not represented.
3. Social Work England was represented by Dr Francis Graydon, counsel, as case presenter instructed by Capsticks LLP.

Adjudicators	Role
Eileen Carr	Chair
Jacqueline Telfer	Social worker adjudicator

Hearings team/Legal adviser	Role
Tom Stoker	Hearings officer
Robyn Watts	Hearings support officer
Paul Moulder	Legal adviser

Service of notice:

4. 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 04 December 2024 and addressed to Ms Baxter at their email address which they provided to Social Work England;
 - An extract from the Social Work England Register as of 04 December 2024 detailing Ms Baxter's registered email address;
 - A copy of a signed statement of service, on behalf of Social Work England, confirming that on 04 December 2024 the writer sent by email service to Ms Baxter at the email address referred to above the notice of hearing and related documents.
5. Having had regard to Rule 16 of Social Work England's 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 Baxter in accordance with Rules 16, 44 and 45.

Preliminary matters:

6. Ms Baxter applied to the panel to sit in private for those parts of the hearing which would consider matters relating to her health or private life. Dr Graydon did not oppose the application.
7. The legal adviser advised the panel that, pursuant to Rule 37, hearings are conducted in public. However, Rule 38 provides that the panel must sit in private to consider matters of the social worker's physical or mental health and may sit in private where it is appropriate, having regard to Ms Baxter's vulnerability, interests or welfare.
8. The panel decided that it would sit partly in private and partly in public, moving into private session whenever it heard matters relating to Ms Baxter's health or private life. A redacted public version of the panel's determination will be produced for publication.

Review of the current order:

9. This final order review hearing is taking place under Paragraph 15(1) of Schedule 2 of The Social Workers Regulations 2018 (as amended) ("the Regulations") and Social Work England's Fitness to Practise Rules 2019 (as amended) ("the Rules").
10. The current order is due to expire at the end of 14 February 2025.

The allegations in respect of which the Case Examiners decided that there was a realistic prospect of finding impairment which resulted in the imposition of the final order were as follows:

11. The relevant allegations were as follows:

While registered as a social worker, you:

1. ...

2. ...

3. *Failed to maintain appropriate professional boundaries with Young Person A:*

3.2. *In a phone call to Young Person A in April 2022*

4. ...

5. ...

6. Concluded a section 47 enquiry relating to Family C without having seen the children

7. Failed to carry out essential tasks required of you in relation to Family C

The matters set out at regulatory concerns 3, 6 and 7 amount to the statutory grounds of misconduct.

The Case Examiners determined the following with regard to a realistic prospect of finding impairment:

12. In their decision dated 15 August 2023, the Case Examiners made the following observations:

“Regulatory concern 3.2

The case examiners are satisfied that adjudicators may consider the social worker’s conduct in respect of regulatory concern 3.2 to represent a significant departure from the standards. The case examiners acknowledge that, at the time the social worker made the call to Young Person A, there were concerns about their wellbeing. However, they nevertheless consider that it is wholly inappropriate for a social worker to make contact with a young person in the early hours of the morning. It is evident that that Young Person A was affected by this call, sufficiently so that they opted to question why it had happened in a complaint.

Regulatory concerns 6 and 7

The case examiners are satisfied that adjudicators may consider the social worker’s conduct in respect of regulatory concerns 6 and 7 to represent a significant departure from the standards.

Section 47 enquiries are implemented when there is reasonable cause to suspect that a child is suffering, or likely to suffer, significant harm. It is of paramount importance that social workers undertake a detailed analysis of the situation, and gather all relevant information. This includes meeting with the children concerned, and obtaining their views, wishes, feelings and concerns. In this case, it is alleged that the social worker did not do so, and that they failed to complete actions arising from significant information referred to children’s services by the police. The case examiners are satisfied that, as a result, the risks to the children could not have been properly understood or assessed, thereby leaving them at risk of harm.

... [T]he case examiners have received evidence of early insight from the social worker, but would have welcomed further reflection on the concerns now before the regulator. [PRIVATE]. The case examiners are mindful, however, that the social worker has not practiced social work in some time, and therefore the steps they would take to prevent repetition are as yet untested.

Accordingly, the case examiners can only conclude that a risk of repetition remains.

The case examiners are satisfied that the concerns in this case are sufficiently serious that the public may expect to see a finding of impairment made. ... The case examiners consider that a well-informed member of the public would expect that the regulator utilise such outcomes, to ensure that the social worker is able to return to practice in a structured way, with appropriate oversight by the regulator.

The case examiners have also considered the risk of harm associated with the social worker's conduct. Whilst there is no indication that service users were harmed as a direct result of the social workers actions, the case examiner guidance is clear that the risk of harm is equally serious. ...

In such circumstances, the public might reasonably expect a finding of impairment to be made, and accordingly, there is a realistic prospect of adjudicators determining that the social worker's fitness to practise is currently impaired."

The Case Examiners determined the following with regard to consensual disposal of the case:

13. In their decision dated 15 August 2023, the Case Examiners made the following observations:

"The case examiners have found no conflicts in evidence that require resolution at a hearing, and the evidence available indicates that the social worker accepts all of the key facts.

However, the case examiners have noted that the social worker has indicated to the regulator that they do not consider their fitness to practise to be currently impaired. Where a social worker does not accept impairment, Case Examiner Guidance (December 2022) suggests that a referral to hearing may be necessary in the public interest. The case examiners consider it is appropriate to depart from that guidance in this instance."

14. In reaching that decision, the Case Examiners referred to the following:

- *There was no conflict in evidence in the case and the social worker accepted the key facts*
- *Whilst there was a risk of repetition, the case examiners had found encouraging evidence of partial insight*
- *Not all professionals have an innate understanding of how and when the public interest may be engaged*
- *The accepted disposal process would provide Ms Baxter an opportunity to consider the case examiners' reasoning and whether they accepted a finding of impairment*

- *The public interest in firm, prompt action.*

15. The Case Examiners decided that it was appropriate to offer a conditions of practice order as the consensual disposal. They stated:

“The case examiners are satisfied that a conditions of practice order is the minimum necessary outcome, to protect the public and to safeguard public confidence. The case examiners considered that all of the following criteria, as outlined in their guidance, apply:

- *the social worker has demonstrated insight*
- *the failure or deficiency in practice is capable of being remedied*
- *appropriate, proportionate, and workable conditions can be put in place*
- *decision makers are confident the social worker can and will comply with the conditions*
- *the social worker does not pose a risk of harm to the public by being in restricted Practice*

The case examiners are also satisfied that the conduct before them is not so serious that a more serious sanction, such as a suspension order, would be necessary to safeguard public confidence. [PRIVATE].

Documents:

16. For the review of the final order made by the Case Examiners, the panel was provided with a 63-page hearing bundle and a 115-page service bundle. In addition, the panel accepted into evidence an email from Ms Baxter to Social Work England dated 07 October 2024.

Social Work England submissions:

17. In the notice of hearing letter, Social Work England had set out its ‘proposed step’ on this review, as follows:

“Social Work England invites the Panel to replace the Conditions of Practice Order with a Suspension Order for further 12 months.

The Social Worker has failed to demonstrate she has engaged with the current conditions on her practice. Social Work England note that the majority of the Conditions will not come into effect as the Social Worker is not working in a social work role. Social

Work England maintain that the Social Worker fitness to practise is currently impaired because she has not demonstrated she has developed any further insight

The Social Worker has instead expressed a preference to be voluntarily removed from the register. This was communicated to Social Work England 8 months after the imposition of the conditions and strongly indicates that the Social Worker has no interest or intention in complying with the conditions. Despite Social Work England providing the Social Worker with relevant information about the voluntary removal process, no application has been received.

Further regulatory concerns were raised about the Social Worker, which are currently being investigated at the pre Case Examiner stage. The new concerns are not a repetition of the allegations found in respect of this case but do indicate attitudinal concerns that mean that Conditions of Practice would no longer be workable.

Social Work England notified the Social Worker about these concerns but she has similarly not engaged by responding or supplying requested information. This further lack of engagement is consistent with the Social Worker's engagement with the Case Review Team and her expressed preference to be voluntarily removed from the register. There is no evidence to suggest that the Social Worker will engage in the future with the fitness to practise process based on these additional regulatory concerns.

In these circumstances, and for the reasons highlighted above, Social Work England invite the Panel in the first instance to replace the current Conditions of Practice with a Suspension Order for a further 12 months. This would give the Social Worker time to re

Given that the Social Worker has indicated a desire to be voluntarily removed from the register the Panel it would be open to the Panel to also consider whether a Removal Order would be appropriate at this stage."

18. The panel heard submissions from Dr Graydon as to the background and the Case Examiners' decision in relation to impairment and sanction. Dr Graydon referred the panel to relevant parts of the decision. He submitted that Social Work England had not received any evidence from Ms Baxter that she had complied with the conditions of practice imposed. He said that Ms Baxter had been provided with information concerning Voluntary Removal, but no application had been received from her.
19. Dr Graydon submitted that Ms Baxter had not responded to being notified of subsequent additional concerns referred to Social Work England. He invited the panel to consider replacing the current conditions of practice order with a suspension order for twelve months. He did so on the basis that there had been no evidence of compliance with the conditions of practice, no address of the past concerns and no information that Ms Baxter had developed further insight. He submitted that the issue of the risk of repetition is central to the case.

Social worker submissions:

20. Ms Baxter gave evidence to the panel. She disputed that she had not engaged with Social Work England. Ms Baxter told the panel that she had not been sure what she could say about the additional concerns, having received a warning from Social Work England that the matters were subject to Family Law proceedings. She said that she could provide evidence of having responded to Social Work England with regard to the current order. With the panel's permission, Ms Baxter produced an email dated 07 October 2024, in which she had responded to Social Work England's request for information.
21. In response to questions, Ms Baxter told the panel that she had not applied for work as a social worker. Her application for a post as a social work assistant had initially been successful, but the offer had been withdrawn after references had been obtained from Darlington. Ms Baxter had provided CPD work to Social Work England as part of the registration renewal process.
22. Ms Baxter said that she accepted responsibility for her past errors. She said that she had accepted a role in children's services for which she had not been ready. [PRIVATE]
23. [PRIVATE]
24. [PRIVATE]. Ms Baxter said that she would comply with any conditions which the panel saw fit to impose on her registration.
25. Ms Baxter said that she had accepted that her fitness to practise was impaired, when she signed the Accepted Disposal Form, in August 2023.

Panel decision and reasons on current impairment:

26. In considering the question of whether there remained a realistic prospect of a finding of 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 Case Examiners. However, it has exercised its own judgement in relation to the question of whether there remains a realistic prospect of a finding of current impairment. The panel also took into account Social Work England's 'Impairment and sanctions guidance'.
27. The panel had regard to all of the documentation before it, including the decision and reasons of the Case Examiners and the new documentation provided by Ms Baxter, which was her email to Social Work England dated 07 October 2024. The panel also took account of the submissions made by Dr Graydon on behalf of Social Work England and those made by Ms Baxter along with her evidence to the panel.
28. The legal adviser advised the panel that it must consider whether it regarded that there remained a realistic prospect of a finding of impairment at a hearing, or whether the previous concerns had been dealt with and fully resolved. He reminded the panel of the case of *Abrahaem v GMC* [2008] EWHC 153 (Admin) and the court's judgment that, at a

review, there is a 'persuasive burden' on the registrant to show that concerns had been dealt with and it was safe to return to unrestricted practice.

29. The legal adviser advised the panel that it could take into account that there was a further referral under investigation, but it should note that the allegations were disputed and the panel could not make any findings in relation to those additional concerns.
30. The panel heard and accepted the advice of the legal adviser. 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 maintain public confidence in the profession.
31. The panel first considered whether there remained a realistic prospect of a finding that Ms Baxter's fitness to practise is impaired.
32. The panel noted that the Case Examiners had noted that Ms Baxter had shown evidence of early insight and would have welcomed further reflections on the concerns before the regulator. It had taken into account that Ms Baxter initially had denied that her fitness to practise was impaired but the Case Examiners had offered her the opportunity to reflect on their findings. Subsequently, as Ms Baxter had informed the panel in her oral evidence, there had been an acceptance of impairment.
33. The panel considered that the misconduct behind the Case Examiners' decision was potentially remediable. However, it was of the view that Ms Baxter had not demonstrated that she had taken any significant steps towards remediation of the past concerns. She had accepted responsibility for the past errors and therefore shown some insight. Although Ms Baxter had demonstrated having responded to Social Work England on enquiry with her current work status, she had not brought to the review any demonstration of reflections, other gaining of insight or evidence of having undertaken any relevant CPD in the areas of concern. The panel accepted that there may have been difficulties in obtaining employment, however, there was no evidence of Ms Baxter having engaged with Social Work England to explore other ways in which she might undertake remediation, absent the opportunity for employment. Even though there may be other reasons, such as health, underlying this, the panel felt that there was a lack of engagement with Social Work England to explain Ms Baxter's difficulties.
34. Accordingly, the panel concluded that there had been no advancement of remediation, or development of further insight. As a result, it considered that there remained a risk of repetition of the failures which Ms Baxter admitted.
35. Further, the panel considered that the original concerns related to fundamental areas of social work practice and that the failures, which were not disputed, had been serious. Therefore, it decided, public confidence in the profession and the maintenance of proper professional standards would be prejudiced unless the panel concluded that there remained a realistic prospect of a finding of impairment.

Decision on Sanction:

36. The panel then considered what, if any, step it should take in relation to its powers pursuant to paragraph 15(1) of Schedule 2 of the Regulations. The panel had regard to the submissions made along with all the information and accepted the advice of the legal adviser.
37. The panel considered the submissions made by Dr Graydon on behalf of Social Work England, during which he invited the panel to consider replacing the current conditions of practice order with a suspension order. It noted the submissions made by Ms Baxter that she would comply with any conditions but that she had referred to voluntary removal from the register, as a way of ending the stress of the process. The panel also took into account the 'Impairment and sanctions guidance' published by Social Work England.
38. The panel was mindful that the purpose of any sanction or step is not to punish Ms Baxter, 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 Baxter's interests with the public interest.
39. The panel was aware that it had the option of taking no action and allowing the current conditions of practice order to lapse on expiry. However, in light of its finding that there was a risk of repetition, the panel decided that this was not appropriate and would fail to protect the public.
40. The panel noted that this sanction would not restrict Ms Baxter's ability to practise and was therefore not appropriate where there is a current risk to public safety. In any event, the deficiencies identified with Ms Baxter's practice had the potential to have adverse consequences and therefore some restriction on their practice is required. Therefore, the panel concluded that issuing a warning would be inappropriate and insufficient to meet the public interest.
41. The panel took the view that the deficiencies identified with Ms Baxter's practice are potentially capable of being remedied. The panel considered that the imposition of conditions of practice had been done with a view to providing a period for a resumption of practice and demonstration of the ability to practise safely, subject to restriction.
42. Even if the reasons behind a failure to resume practise were not Ms Baxter's fault, the panel considered that the obligation had been on her to use the opportunity to engage with the regulator towards addressing the concerns in other ways. A period of over a year had now elapsed, in respect of which there had been no real demonstration of efforts towards remediation.
43. The panel was also mindful that this period also led to the potential for some de-skilling to have occurred and Ms Baxter had stated that she herself had felt a lack of confidence had arisen, albeit that this may be based on matters relating to Ms Baxter's health.

44. In the circumstances, the panel considered that it no longer met the needs of public protection to allow for the potential resumption of practice subject to conditions of practice.

45. The panel considered paragraphs 136 and 137 of Social Work England's *Impairment and Sanctions guidance*. These state as follows:

"136. Suspension is appropriate where (both of the following apply):

- the decision makers cannot formulate workable conditions to protect the public or the wider public interest*
- the case falls short of requiring removal from the register (or where removal is not an option)*

137. Suspension may be appropriate where (all of the following):

- the concerns represent a serious breach of the professional standards*
- the social worker has demonstrated some insight*
- there is evidence to suggest the social worker is willing and able to resolve or remediate their failings"*

46. The panel considered that this is now a case where it could not formulate workable conditions. However, the concerns remained potentially remediable, if Ms Baxter decided to engage with Social Work England over ways in which to demonstrate remediation. The concerns had been serious, but Ms Baxter had shown some insight, by acceptance of responsibility for the concerns.

Suspension order

47. The panel concluded that the appropriate sanction is a suspension order. A suspension order will prevent Ms Baxter from practising during the suspension period, which will therefore protect the public and the wider public interest.

48. The panel determined that the suspension order should be imposed for a period of twelve months. The panel was satisfied that this period was appropriate because it would allow Ms Baxter time, if she wished to return to practice, in which to demonstrate her remediation of fitness to practise as a social worker. The panel concluded that this would take a minimum of 12 months to achieve. Therefore, the suspension period reflects the amount of time that Ms Baxter may need to reflect on the panel's findings and devise a plan of action targeted towards an unrestricted return to the register.

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

- Written reflections on the concerns involved in the fitness to practise case

- (ii) Evidence that Ms Baxter has kept her social work skills and knowledge up to date, targeted towards the particular concerns in the case
- (iii) Any current relevant references and testimonials, which can testify as to Ms Baxter's character and performance in any roles undertaken.

50. The panel was satisfied that, had it been appropriate, a removal order was available to the panel because the concerns relating to Ms Baxter's fitness to practise were on the basis of one or more grounds as set out in regulation 25(2)(a), (c), (d), (f) or (g). However, 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 not be appropriate because the sanction of suspension adequately protected the public.

Right of appeal:

51. 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.

52. 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.

53. 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.

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

Review of final orders:

55. 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).

56. 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

57. 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>