

Social worker: Carly M Birks

Registration number: SW13504

Fitness to Practise

Final Order Review Meeting

Date of meeting: 09 January 2025

Meeting venue: Remote meeting

Final order being reviewed:
Suspension order (expiring 21 February 2025)

Meeting outcome:
Extend the current suspension order for a further 12 months with effect
from the expiry of the current order

Introduction and attendees:

1. This is the first review of the suspension order originally imposed for a period of 12 months by the case examiners of Social Work England on 22 February 2024. This disposal was agreed with Ms Birks.
2. Ms Birks did not attend the review 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
Timothy Skelton	Chair
Beverley Blythe	Social worker adjudicator

Hearings team/Legal adviser	Role
Hannah Granger	Hearings officer
Robyn Watts	Hearings support officer
Uwa Adedeji	Legal adviser

Service of notice:

4. The panel of adjudicators (hereafter “the panel”) had careful regard to the documents contained in the substantive order review hearing service bundle as follows:
 - I. A copy of the notice of the final order review hearing dated 11 December 2024 and addressed to Ms Birks at their email address which she provided to Social Work England;
 - II. An extract from the Social Work England Register as of 11 December 2024 detailing Ms Birks registered email address;
 - III. A copy of a signed statement of service, on behalf of Social Work England, confirming that on 11 December 2024 the writer sent an email to Ms Birks at the address referred to above.
5. The panel accepted the advice of the legal adviser in relation to service of notice.
6. Having had regard to rule 16 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 Birks in accordance with rules 44 and 45 of Social Work England’s Fitness to Practise Rules (updated 9 April 2020) (‘the Rules’).

Proceeding with the final order review as a meeting in the absence of the social worker:

7. The notice of final order review hearing informed Ms Birks that the review may take place as a meeting.

8. 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 30 December 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 in the interests of justice to proceed with this review in the absence of Ms Birks.

10. There had been no engagement by Ms Birks since the final order was made on 22 February 2024, as such there was no guarantee that adjourning today’s proceedings would secure her attendance. The panel also bore in mind that this is a statutory review of Ms Birks’ suspension order involving consideration of Ms Birks’ current fitness to practise and potential risk to the public. In the circumstances, the panel concluded that it was appropriate to proceed in the absence of Ms Birks in the interests of justice and the expeditious disposal of this hearing. 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(d). It was also satisfied that it had sufficient information from Social Work England to conduct the review on the papers in the absence of the parties.

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 at the end of 21 February 2025.

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

13. A referral from the social worker’s employer, Lincolnshire County Council was received on 17 February 2022 alleging that the social worker had been suspended and

following further investigation, dismissed from their employment. It was alleged that the social worker failed to carry out their statutory duties, leaving vulnerable people at risk and without a service.

14. The regulatory concerns that were subject to the final order, were as follows:

“Whilst registered as a social worker between April to November 2021 you:

1. Did not carry out your statutory duties leaving vulnerable people at risk and without a service in that you:

1.1 Did not complete Adult Care Plans and / or Reviews.”

The case examiners’ decision, on 15 February 2024, to dispose of the case by way of an accepted disposal of a 12 months’ suspension order:

15. The case examiners concluded there was a realistic prospect of regulatory concerns 1, 1.1 being found to amount to the statutory ground of lack of competence or capability.
16. In respect of impairment, the case examiners concluded that the social worker offered limited insight into the circumstances which culminated in the regulatory concerns. Whilst the social worker accepted the regulatory concerns in full and offered a significant amount of remorse for her alleged actions, her insight into how her health and wider circumstances impacted on her practice at the time was limited.
17. In the absence of further evidence of insight and remediation, the case examiners concluded that the risk of repetition was high.
18. The case examiners were of the opinion that any member of the public, given the seriousness of the regulatory concerns, would expect that the social worker should not be practising without restriction. The evidence suggested that the actions of the social worker had caused potential and significant harm to service users. This had the potential to undermine public confidence in the social work profession and there was a clear need to maintain proper professional standards.

Case examiners determinations with regard to sanction:

19. The case examiners were of the view that a one year suspension order provided an opportunity for the social worker to reflect on whether they wished to return to practice and undertake professional and personal development to assist them with their return to practice. This sanction would also mark the seriousness of the regulatory concerns.

Suspension recommendations

20. As part of the order, the case examiners made several recommendations. If completed, the following recommendations would assist in demonstrating Ms Birks' remediation in preparation for the review of the order:

- i. *"Provides a reflective piece demonstrating insight into the circumstances of their lack of competence or capability. This could provide evidence of remediation together with an action or wellbeing plan to assure the regulator that any future risk of repetition is low.*
- ii. *Provides evidence of any continuing professional development and training undertaken during the period of suspension, in order to offer assurance to adjudicators that the social worker has maintained an appropriate level of knowledge and skill.*
- iii. *Although a health concern has not been taken forward in this case, given the link between competence/capability and health, it may be beneficial for the social worker to provide medical evidence in relation to their health condition and how it has been managed, should they consent to do so."*

21. The social worker accepted this disposal on 22 January 2024.

Social Work England submissions:

22. Within the notice of hearing, dated 11 December 2024, Social Work England primarily submitted that the panel should extend the suspension order for a further 12 months:

"Subject to any further information from the Social Worker, Social Work England invite the panel to extend the suspension order for a further 12 months on the basis that the Social Worker's fitness to practise remains impaired.

As matters stand Social Work England has significant concerns in respect of the Social Worker's level of insight, reflection and remediation. The Social Worker has had very little engagement with Social Work England since the final order was made. There has been no evidence provided by her to demonstrate insight, reflection and remediation. She has recently been invited to provide the same but has not yet done so. Accordingly, Social Work England submit that the risk of repetition remains high. An extension of the suspension order would afford the social worker the opportunity to engage with the fitness to practise process and to demonstrate insight, reflection and remediation. Social Work England submit that it is appropriate and proportionate to extend the suspension order for a further 12 months in order to protect the public and in the public interest generally."

Social worker's submissions

23. The social worker had provided no new information for the review hearing.

Panel decision and reasons on current impairment:

24. In considering the question of current impairment, the panel took into account all of the documentation before it, including the decision and reasons of the case examiners. However, it has exercised its own judgement and undertaken a comprehensive review of all the documentation in relation to the question of current impairment. The panel also took into account Social Work England's 'Impairment and sanctions guidance'.

25. 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 maintaining public confidence in the profession.

26. The panel reflected on the burden being upon Ms Birks to provide evidence and information to show development of insight and remediation and noted the fact she had not done so.

27. The panel noted Ms Birks could have applied for an early review of the suspension order or attended the hearing today. However, since the order was made, there has been no evidence of attempted remediation or reflection. Furthermore, the social worker has not engaged with the regulator.

28. In light of the lack of evidence of adequate insight and remediation, the panel found that there was no evidence to refute the case examiner's findings that there remained a real risk of repetition of her failings. Therefore, the panel concluded that in respect of the personal component, her fitness to practise was currently impaired.

29. Further, regarding the public component, the panel concluded that members of the public would be concerned if her fitness to practise was not found to be impaired and that such a finding would undermine public confidence in the profession. Such a finding would similarly fail to uphold professional standards.

Decision and reasons on sanction:

30. Having found Ms Birks's fitness to practise remained impaired the panel then considered what, if any, sanction it should impose in this case.

31. The panel considered the submissions made on behalf of Social Work England. The panel also took into account the Impairment and Sanctions Guidance published by Social Work England.

32. The panel was mindful that the purpose of any sanction was not to punish Ms Birks, 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 upholding proper standards of conduct and behaviour.
33. The panel applied the principle of proportionality by weighing Ms Birks's interests with the public interest and by considering each available sanction in ascending order of severity.
34. The panel considered that taking no action, or issuing advice or a warning, would not adequately reflect the serious nature of Ms Birks's lack of competency. These sanctions would not adequately protect the public as they would not restrict her practice.
35. The panel next considered whether a conditions of practice could be imposed, rather than extending the current suspension order. The panel noted that there had been no engagement in the 12 months since the order was imposed by Ms Birks, as such the panel had no knowledge of her current circumstances. Conditions could not be applied as Ms Birks had not provided any information to suggest she was willing to engage with workable conditions that could address the risk. Further, the panel was aware of the perceived impact of Ms Birks' health condition on her fitness to practise, to which it also had no up to date information.

Extend the current suspension order for a further 12 months with effect from the expiry of the current order:

36. Having determined that a conditions of practice order would not be appropriate, the panel considered whether to impose an extension to the period of suspension. The panel considered paragraphs 136 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)*

37. The panel noted that Ms Birks was asked to provide further information on health issues and has not consented to doing so. The panel considered that the shortfalls are remediable, and it appeared in Ms Birks' appraisals that she potentially had many strengths that could be built upon. The panel considered that Ms Birks had accepted the decision and sanction imposed, which included the further remedial work that was recommended.

38. The panel was mindful of Paragraph 13(2) of Schedule 2 of The Social Workers Regulations 2018 (as amended) which states:

A removal order may only be made in a case where—

“b. the adjudicators found the social worker’s fitness to practise to be impaired on one or more of the grounds set out in regulation 25(2)(b), (e) or (h) and the social worker was either suspended from practice, or subject to a conditions of practice order, or a combination of both, for a continuous period of two years immediately preceding the day when the removal order took effect”

39. The option of removal was therefore not available to the panel today.

40. In the circumstances, the panel considered that the fair and proportionate measure would be to extend the final suspension order by 12 months. The panel considered that it was open to Ms Birks to work on remediation in preparation for the next review. This panel cannot bind a future reviewing panel, however, it considers that the recommendations previously made by the case examiners remain relevant and may assist Ms Birks in identifying the steps to take in order to demonstrate her progress towards achieving remediation.

41. Ms Birks could request an early review for the order to be reviewed prior to its expiry.

42. The panel deliberated that the matter could go in a variety of directions at the next review. In the absence of Ms Birks successfully engaging with the recommendations above, a future panel of adjudicators may decide to make a removal order which could result in Ms Birks being a loss to the profession. The panel therefore recommends that Ms Birks responds positively to the recommendations so that she can commence her journey to potentially return to practise.

Right of appeal:

43. 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.

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

Review of final orders:

47. 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).
48. 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

49. 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>