

Social worker: Peter Okunja

Registration number: SW89757

Fitness to Practise

Final Hearing

Dates of hearing: Tuesday 18 February 2025 to Wednesday 26 February 2025

Hearing venue: Remote hearing

Hearing outcome: Suspension order (12 months)

Interim order: Interim suspension order (18 months)

Introduction and attendees:

1. This is a hearing held under Part 5 of The Social Workers Regulations 2018 (as amended) (“the regulations”).
2. Mr Okunja did not attend and was not represented.
3. Social Work England was represented by Ms A Kennedy instructed by Capsticks LLP.

Adjudicators	Role
Alexander Coleman	Chair
Jasmine Nembhard-Francis	Social worker adjudicator
Cherrylene Henry-Leach	Lay adjudicator

Andrew Brown	Hearings officer
Robyn Watts	Hearings support officer
Zill-E Huma	Legal adviser

Service of notice:

4. The panel of adjudicators (hereafter “the panel”) was informed by Ms Kennedy that notice of this hearing was sent to Mr Okunja by email to an email address provided by the social worker (namely their registered email address as it appears on the Social Work England register). Ms Kennedy submitted that the notice of this hearing had been duly served.
5. The panel of adjudicators had careful regard to the documents contained in the final hearing service bundle as follows:
 - A copy of the notice of the final hearing dated 16 January 2025 and addressed to Mr Okunja at their email address which they provided to Social Work England;
 - An extract from the Social Work England Register as of 16 January 2025 detailing Mr Okunja’s registered email address
 - A copy of a signed statement of service, on behalf of Social Work England, confirming that on 16 January 2025 the writer sent by email to Mr Okunja at the address referred to above: notice of hearing and related documents;
6. The panel accepted the advice of the legal adviser in relation to service of notice.
7. Having had regard to Rules 14 and 15 of the Fitness to Practise Rules 2019 (as amended) (“the 2019 Rules”) and all of the information before it in relation to the service of notice, the panel was satisfied that notice of this hearing had been served on Mr Okunja in accordance with Rules 44 and 45 of the 2019 Rules.

Proceeding in the absence of the social worker:

8. The panel heard the submissions of Ms Kennedy on behalf of Social Work England. Ms Kennedy submitted that notice of this hearing had been duly served. Ms Kennedy applied that the panel proceed in the absence of Mr Okunja, relying on the same grounds presented during the previous case management meeting held on 11 February 2025. She submitted that since that meeting, Mr Okunja had neither responded to communications nor submitted any new evidence. As such there was no guarantee that adjourning today's proceedings would secure his attendance. She therefore invited the panel to proceed in the interests of justice and the expeditious disposal of this hearing.
9. The panel accepted the advice of the legal adviser in relation to the factors it should take into account when considering this application. This included reference to Rule 43 of the Rules and the cases of *R v Jones [2002] UKHL 5*; *General Medical Council v Adeogba [2016] EWCA Civ 162*. The panel also took into account Social Work England guidance 'Service of notices and proceeding in the absence of the social worker' and the Social Work England 'Guidelines on postponements and adjournments of fitness to practise hearings', last updated on 16 December 2022.
10. The panel considered all of the information before it, together with the submissions made by Ms Kennedy on behalf of Social Work England. The panel noted that Mr Okunja had been sent notice of today's hearing and the panel was satisfied that he was or should be aware of today's hearing. The panel thoroughly considered the matter and decided to proceed in Mr Okunja's absence. It emphasised that postponing the Final Hearing without a compelling reason would undermine Social Work England's ability to fulfil its overarching objective of public protection. It is crucial to resolve matters expeditiously, and it would cause inconvenience to witnesses and the regulator, denying other cases the opportunity to be heard within the 7-day listing.
11. The panel noted that Mr Okunja had communicated '*dates to avoid*' to Social Work England's Hearings team on 17 September 2024, specifying that he would not be available in November 2024 but would be available from December 2024. As a result, the hearing was scheduled for 18 February 2025 to 26 February 2025, with a Directions Order issued on 1 November 2024. The panel observed that Mr Okunja did not object to the hearing listing or the Directions Order when they were issued, nor did he raise any concerns subsequently. Evidence indicated that Mr Okunja booked his tickets to Uganda on 8 November 2024, after the Final Hearing was listed, with flights scheduled for 26 November 2024 and a return in September 2025. He notified the panel on 29 November 2024 that he would not be attending the Final Hearing due to his presence in Uganda; however, he did not request a postponement until 14 January 2025.
12. Additionally, the panel noted Mr Okunja's requested to relist the hearing for a date after his return to the UK, which he stated would be in September 2025. Ms Kennedy on behalf of Social Work England maintained that Mr Okunja could attend the Final Hearing remotely if he chose to do so, by making arrangements to access the internet. The panel indicated that Mr Okunja was aware of the scheduled date prior to his travel

decision, providing him with sufficient time to explore alternative arrangements for internet access and care for his mother during the hearing.

13. The panel further noted that no evidence was provided as to date regarding Mr Okunja's health conditions or how these might impact his ability to participate in today's hearing. It considered that the regulatory hearing system conducted by Social Work England is designed to accommodate self-represented parties, including provisions for a legal advisor to explain the processes involved.
14. After careful consideration of all the information before it and in the absence of any compelling and /or good reasons, the panel determined that Mr Okunja had chosen voluntarily to absent himself. The panel had no reason to believe that an adjournment would result in his attendance. Having weighed the interests of Mr Okunja in regard to his attendance at the hearing with those of Social Work England and the public interest in an expeditious disposal of this hearing, the panel determined to proceed in Mr Okunja's absence, ensuring the timely resolution of the case while maintaining the integrity of the process and the protection of the public.
15. Further, as Mr Okunja has put forward his point of view with the assistance of solicitors, the panel could take these views into account.

Preliminary matters:

Hearsay evidence

16. Ms Kennedy made an application to admit a telephone note namely "KAW05" as hearsay evidence between Katherine Whittingham and Service User 1. Ms Kennedy informed the panel that following the referral from case examiners on the 17 January 2023 when they referred the allegations to a fitness to practise hearing, Capsticks took steps to obtain evidence from Service User 1. Service User 1 advised that she had now moved abroad and provided her email address. Witness information documents were sent to Service User 1 together with a chaser and a follow up email. Service User 1 has not responded to date.
17. Ms Kennedy submitted that it would be fair and proportionate to admit exhibit "KAW/05" as hearsay. It is not sole or decisive evidence in that the Mr Okunja has made admissions relation to Allegation 1. Reasonable and proportionate steps have been taken to secure the attendance of Service User 1. Ms Whittingham took the telephone note at exhibit "KAW/05" in her professional capacity as a solicitor and it is submitted that there is no reason to doubt the veracity of the content of the telephone note. Ms Whittingham is due to give evidence about the circumstances of the telephone call and note.
18. The panel heard and accepted the legal adviser's advice on hearsay. This included reference to the panel's discretion under rule 32(b)(vii) of the FTP Rules to admit evidence where they consider it fair to do so whether or not such evidence would be

admissible before the courts and the principles for exercising that discretion, as set out in the case of *Thorneycroft v NMC*. The legal adviser also referred the panel to the caution which panels should exercise when considering hearsay information, as described in *Ogudele v NMC* [2013] EWHC 2748 (Admin).

19. The panel considered that in relation to the note of the conversation between Service User 1 and witness Ms Whittingham it was both fair and proportionate to admit this as hearsay. The panel noted that it was not the sole and decisive evidence in relation to the allegation. In addition, Katherine Whittingham was attending as a witness and could give evidence about the circumstances in which the note was taken. Further, the panel noted that as a result of Service User 1's non-engagement it would not be reasonable or proportionate to make any further attempts to secure her attendance. The panel considered that this evidence would give the panel relevant evidence relating to context and it was fair to admit it.

Background:

20. On 11 June 2019, the Health Care Professions Council ("HCPC") received a referral from the Social Worker's former employer Merton Council ("the Council") regarding the Respondent social worker, Peter Okunja ("Mr Okunja").
21. The referral stated that the Mr Okunja had sent inappropriate text messages to the parent (Service User 1) of a child (Child K). During the local authority investigation, a further concern was raised that the Mr Okunja breached client's confidentiality by sending an email with attached documents containing confidential information to his personal email address.
22. At the time of the concerns in question, Mr Okunja was employed by the Council as an agency social worker in the Looked after Children team. Mr Okunja commenced this role in December 2018, and he was the allocated worker for Child K. The case was transferred to Social Work England when they became the regulator on 2 December 2019.

Allegations:

23. *The allegations arising out of the regulatory concerns referred by the Case Examiners on 17 January 2023 are:*

Whilst registered as a Social Worker and during the course of your employment with Merton Council, you:

1) Between 24 May 2019 and 1 June 2019 you sent Service User 1 inappropriate messages using your personal phone number.

2) On 20 May 2019 you sent confidential documents relating to Child K to your personal email address.

Your conduct at particulars 1-2 constitutes misconduct

Your fitness to practice is impaired by reason of misconduct.

Agreed and disputed facts:

24. The panel noted that Mr Okunja accepted sending the messages using his personal phone number however denied that they were inappropriate as alleged in allegation 1.
25. The panel also noted that Mr Okunja admitted that he sent confidential documents relating to child K to his personal e-mail address as alleged in allegation 2.
26. Mr Okunja denied that his conduct in allegation 1-2 constitute misconduct.
27. Mr Okunja denied that his fitness to practice impaired by reason of misconduct.
28. In line with Rule 32c(i)(a) of the Rules, the panel then went on to determine the disputed facts.
29. The panel heard submissions from Ms Kennedy that as regards to facts she was not inviting the panel to find Mr Okunja's admissions found proved at this stage.
30. It accepted the advice of the Legal Adviser with regards to the weight on hearsay evidence, the adverse inference as Mr Okunja is not present, and character evidence. It recognised that the burden of proving each allegation rested with Social Work England and that the standard of proof required was the balance of probabilities.
31. The panel accepted Ms Kennedy's submission and it did not find any admission of Mr Okunja proved at this stage. Further, the panel did not draw any adverse inference by Mr Okunja not attending because he has, through solicitors, participated in an earlier part of the process addressing the issues raised.
32. The panel heard from the following witnesses Ms McQueen, Ms Whittingham and Ms Eaton. The panel considered that all these witnesses strove to be helpful to the panel.

Findings and reasons on facts:

Allegation 1

Whilst registered as a Social Worker and during the course of your employment with Merton Council, you:

- 1) Between 24 May 2019 and 1 June 2019 you sent Service User 1 inappropriate messages using your personal phone number.

33. The panel after a careful and thorough evaluation of the evidence regarding the messages exchanged between Mr Okunja and Service User 1, concluded that the content of these messages was inappropriate on the balance of probabilities. This standard of proof requires that it is more likely than not that the allegation is true, and the evidence presented meets this criterion.
34. The panel considered the timeline of messages which indicates that between 24 May 2019 and 1 June 2019, Mr Okunja engaged in communication that significantly breached the expected professional boundaries inherent in his role as a social worker. The evidence reveals a series of messages that demonstrate a concerning degree of personal intimacy and emotional disclosure unsuitable for a professional context. For instance, in a message dated 28 May 2019, Mr Okunja stated, *"This is why I have to seek emotional support from none other than you,"* which illustrates a troubling reversal of the expected roles in the social work relationship. Such a statement indicates that Mr Okunja was seeking emotional support from a vulnerable parent, thereby compromising the professional boundaries that are crucial in social work, which is completely inappropriate.
35. The panel noted that the further analysis of the messages reveals additional inappropriate content. On 31 May 2019, Mr Okunja wrote, *"Can we link up on Friday afternoon"* and *"Think of a place where we can be free."* These messages indicate a desire for a personal meeting that is outside the professional scope of his duties. They suggest a shift from focusing on the welfare of Child K to pursuing a personal connection with Service User 1, which is wholly inappropriate given the vulnerable context.
36. The panel heard oral evidence from Ms E McQueen who was the Head of Service of one of the services that Mr Okunja worked in. The panel noted that she was not his line manager. Ms McQueen's gave a clear, concise and credible evidence which significantly supports these findings. She highlighted that, *"When a Social Worker starts talking about their own personal motivation and their own needs and they state that they are buying alcohol to share with a parent, these are indications of a level of intimacy that is a line crossed in terms of professional relationship with a client."* This insight is pivotal in understanding the nature of the messages, particularly the statement, *"Having some wine; it was meant for you but no response."* Such comments not only indicate an inappropriate contact but also undermine the trust that is essential in social work practice.
37. The reliability and credibility of Ms McQueen's evidence further bolsters the conclusion that Mr Okunja's messaging was inappropriate. Her consistent and detailed accounts reflect a deep understanding of the professional standards expected of social workers. Ms McQueen's professional experience within the Council adds weight to her observations and reinforces the assertion that Mr Okunja's actions compromised the integrity of the client-worker relationship.

38. The timing of the messages exchanged between Mr Okunja and Service User 1 further underscores the inappropriate nature of the contact. The messages span from 24 May 2019 to 1 June 2019, with the latest message sent at 23:39 PM on 31 May 2019. This late hour is particularly concerning, as it suggests a level of informality and personal engagement that is not appropriate for a professional relationship between a social worker and a client.
39. The late timing of the messages, especially one sent just before midnight, raises significant questions about Mr Okunja's judgment and professionalism. Engaging in communication of this nature at such a late hour blurs the lines between professional and personal interactions, suggesting an attempt to develop an inappropriate degree of intimacy. It is expected that a social worker maintains clear boundaries, particularly regarding the timing of communications, to ensure that the focus remains on the welfare of the client and their family.
40. In the context of the messages sent, the latest exchange being at 23:39 PM, coupled with earlier statements such as "*Having some wine; it was meant for you but no response,*" and "*I will be in the area in the evening and thought to check on you,*" further illustrate a troubling shift from professional concern to personal interest. This late-night interaction without a valid reason and justification not only undermines the professional standards expected in social work but makes it a significant factor in evaluating their appropriateness. This further affirms the conclusion on the balance of probabilities that the messages were indeed inappropriate and unacceptable within the context of social work practice.
41. Therefore, the panel concludes that allegation 1 is proved on balance of probabilities.

Allegation 2

2) On 20 May 2019 you sent confidential documents relating to Child K to your personal email address.

42. The panel in addressing the allegation concerning the forwarding of confidential documents relating to Child K to Mr Okunja's personal email address, applied the civil standard of proof which is balance of probabilities. This standard requires that it is more likely than not that the alleged breach occurred, necessitating a thorough examination of the evidence and relevant policies to reach a well-founded decision.
43. The panel noted that on 20 May 2019, an email was sent from Mr Okunja's work email address to his personal email address, specifically to his personal Hotmail address. This email, as detailed in the evidence provided by Ms D Eaton who is employed as a Principal Social Worker for Children's Social Care and Youth Inclusion (CSC&YI) with Merton Council since September 2021. In her exhibit DE/02(d), contained four attached documents with the subject line "Social case assessment." The contents of these documents included sensitive personal details

pertaining to Child K's parents, confidential service user information, and information sourced from another professional involved in the case. The nature of this information clearly categorises it as highly confidential and necessitates strict adherence to privacy protocols.

44. The panel considered the Council's confidentiality policy, presented by Ms Eaton. Her evidence, exhibit DE/05, outlines critical guidelines designed to protect personal identifiable information. The policy explicitly states that email messages can be easily intercepted and should not be used to transmit personal identifiable information unless through secure or encrypted means. This guideline is crucial in safeguarding sensitive data, particularly when it concerns vulnerable individuals such as children and their families.
45. The panel further considered that the policy delineates the obligations of Council staff to maintain confidentiality. It asserts that staff are contractually bound to respect the confidentiality of any information encountered during their duties and prohibits the disclosure of such information unless explicitly authorised under the policy. The legal duty of confidence highlighted in the policy further emphasises that personal information regarding children and families must not be disclosed without appropriate consent, which was clearly not obtained in this instance as by sending it to a personal non secure email address, there was a risk of this information being compromised.
46. The panel noted that Mr Okunja has acknowledged the act of forwarding confidential documents to his personal email address, which directly confirms that the breach occurred.
47. The panel concluded that Ms Eaton gave clear and reliable oral evidence, further reinforcing the events surrounding this breach.
48. The panel in determining whether the breach occurred on the balance of probabilities, reached the decision that the evidence strongly supports a conclusion that a violation of the Council's confidentiality policy did indeed take place. Mr Okunja's admission, combined with the documented contents of the email and the attached sensitive materials, indicates that the breach was unjustifiable given the circumstances.
49. The panel after a thorough evaluation of the evidence and application of the balance of probabilities test, determined that Mr Okunja did indeed breach the confidentiality policy by transmitting confidential documents to his personal email address.
50. Therefore, the panel concludes that the allegation 2 is proved on balance of probabilities.

Finding and reasons on grounds:

51. Ms Kennedy in her submissions invited the panel to find that the factual findings it had made amounted to misconduct on the part of Mr Okunja. She referred the panel to *Roylance v GMC [2000] 1 AC 311* and to those parts of Social Work England's Professional Standards which, she submitted, had been contravened. She further asserted that the conduct puts the Mr Okunja in breach of the HCPC Standards of Conduct, Performance and Ethics / Proficiency, in particular

"HCPC Standards of Proficiency 2012 :

2.8 – Recognise that relationships with service users and carers should be based on respect and honesty.

3.4 – Be able to establish and maintain personal and professional boundaries.

3.5 – Be able to manage the physical and emotional impact of their practise.

8.1 – Be able to use interpersonal skills and appropriate forms of verbal and non-verbal communication with service users, carers and others.

HCPC Standards of conduct, performance and ethics 2016:

1.7 You must keep your relationships with service users and carers professional.

6.1 You must not do anything, or allow someone else to do anything, which could put the health or safety of a service user, carer or colleague at unacceptable risk.

9.1 You must make sure that your conduct justifies the public's trust and confidence in you and your profession.

HCPC Standards of conduct, performance and ethics 2016:

10.3– Be able to understand and explain the limits of confidentiality. You must keep records secure by protecting them from loss, damage or inappropriate access."

52. The panel heard and accepted the legal adviser's advice on misconduct. The panel understood from that advice that: -
53. Whether facts proved or admitted amount to misconduct is a matter of judgment for the panel rather than a matter of proof. [*Council for the Regulation of Health Care Professionals v GMC and Biswas [2006] EWHC 464*].
54. Misconduct is, in essence, a serious departure from the standards of conduct expected of social workers as professionals and what would be proper in the circumstances of the case. [*Roylance v General Medical Council (No.2) [2000] 1AC*]
55. Whether a breach of professional rules should be treated as professional misconduct depended on whether it would be regarded as serious and reprehensible by competent and responsible [registrants] and on the degree of culpability. [*Solicitors Regulatory Authority v Day & ors [2018] EWHC 2726 (Admin)*].

56. There is a high threshold of gravity for misconduct. Behaviour which is trivial, inconsequential, a mere temporary lapse or something otherwise excusable or forgivable does not constitute misconduct. [Khan v Bar Standards Board [2018] EWHC 2184(Admin)]
57. The legal adviser reminded the panel that the question of misconduct was a matter for its judgment and that appropriate standards of conduct should be judged with reference to Social Work England's Professional Standards. Not every departure from those Standards would necessarily amount to misconduct. The departure had to be sufficiently serious; whether any particular departure was sufficiently serious to be categorised as misconduct was a matter for the judgement of the panel. The panel had regard to Social Work England's Professional Standards and considered that the following standards were of relevance in the light of the panel's factual findings:
58. The panel conducted a thorough assessment of the allegations against Mr Okunja, evaluating each allegation for misconduct and subsequent impairment of fitness to practice.

Allegation 1

59. The first allegation, which concerns inappropriate communications by Mr Okunja with Service User 1, between 24 May 2019 and 1 June 2019, the panel concluded that the nature of these interactions constitutes misconduct. After finding the allegation proved, the panel considered the content and context of these communications, which reveal a significant breach of professional boundaries that are essential in the field of social work. The standards required of social workers, as articulated in the HCPC Standards of Conduct, Performance and Ethics, clearly state the necessity of maintaining professional boundaries and ensuring that relationships with service users are based on respect and honesty. Specifically, Standard 2.8 emphasizes that relationships should be founded on respect, while Standard 3.4 mandates the establishment and maintenance of personal and professional boundaries.
60. The messages sent by Mr Okunja to Service User 1 reveal a concerning attempt to develop a degree of personal intimacy, which is wholly inappropriate in a professional context. For instance, statements indicating a desire for emotional support from a vulnerable parent represent a significant breach of the expected professional roles. This lapse in professional judgment by Mr Okunja raises ethical questions about his ability to perform his duties effectively, as it compromises the integrity of the social worker-service user relationship.
61. The evidence presented indicates that Mr Okunja engaged in communications that were not only inappropriate but also indicative of a concerning degree of personal intimacy and emotional disclosure. For instance, a message dated 28 May 2019, in which Mr Okunja stated, *"This is why I have to seek emotional support from none*

other than you,” demonstrates a troubling reversal of expected roles. In a social work context, it is imperative for professionals to maintain a clear boundary between their personal emotions and their service users’ needs. By seeking emotional support from a vulnerable parent, Mr Okunja compromised the integrity of the professional relationship, which constitutes misconduct.

62. Further, the messages sent on 31 May 2019, where Mr Okunja expressed a desire to *“link up on Friday afternoon”* and suggested, *“Think of a place where we can be free,”* indicate a shift from a focus on the welfare of Child K to pursuing an inappropriate personal connection with Service User 1. This pursuit not only undermines the professional focus required in social work but also raises ethical concerns about Mr Okunja’s judgment and intentions. Such actions clearly demonstrate misconduct.
63. The oral evidence provided by Ms E McQueen, Head of Service, significantly supports these findings. Her insights highlighted the dangers of crossing personal and professional boundaries, particularly when a social worker begins to disclose personal motivations and needs. Statements made by Mr Okunja, such as *“Having some wine; it was meant for you but no response,”* further exemplify this inappropriate behaviour towards a vulnerable service user. Such comments not only breach professional standards but also erode the trust that is crucial in the social worker-service user relationship, thereby confirming that Mr Okunja’s behaviour constitutes misconduct.
64. The timing of the messages is another factor that underscores the inappropriate nature of Mr Okunja's conduct. Sending messages late at night, for example, one at 23:39 PM, is not suitable for a professional social work service user relationship. Such informal non-professional communications raise significant concerns about Mr Okunja’s judgment and professionalism. This blurs the necessary boundaries that should be maintained to prioritise the welfare of the service user and their family, reinforcing that his actions amount to misconduct.

Allegation 2

65. Regarding the second allegation, which pertains to the forwarding of confidential documents to his personal email address, the panel found that Mr Okunja's conduct constitutes misconduct. The HCPC Standards of Conduct, particularly Standard 10.3, highlight the imperative of maintaining confidentiality and securely handling sensitive information. Mr Okunja’s decision to send confidential documents related to Child K to his personal email represents a clear violation of these standards and exposes sensitive information to potential risks.
66. The panel considered that in his explanation, he cited feeling pressure due to an audit of the case and mentioned that he did not have access to his work laptop at the time. While such circumstances may evoke sympathy, they do not mitigate Mr Okunja's responsibility to comply with established protocols designed to protect

confidential information. The decision to send sensitive documents to a personal email address, which is inherently less secure, reflects a significant lapse in judgment and a failure to uphold the standards expected of a professional in this role.

67. The panel regarded Ms Eaton's oral evidence helpful in elucidating the context and implications of Mr Okunja's actions, highlighting the importance of adhering to confidentiality policies. The detailed nature of her evidence underscores that the policies in place are not mere formalities but essential safeguards intended to protect the interests of service users. Mr Okunja's actions not only contravened these policies but also potentially exposed sensitive information to risks associated with unauthorised access.
68. The panel noted that the confidentiality policy established by the Council explicitly prohibits the transmission of personal identifiable information via unsecured email channels. This policy is not merely a formality but a critical safeguard designed to protect vulnerable individuals and uphold the integrity of social work practice. By failing to adhere to these guidelines, Mr Okunja not only contravened professional standards but also demonstrated a lack of regard for the ethical obligations inherent in his role as a social worker. The panel find misconduct of a serious nature.
69. The panel concluded that Mr Okunja's actions in allegation 2, therefore, represent a significant breach of this trust and warrant classification of misconduct.

Finding and reasons on current impairment

70. Ms Kennedy referred the panel to Social Work England's guidance on Impairment and invited the panel to make a finding of current impairment of fitness to practise by reason of misconduct. She emphasised that Mr Okunja's level of insight, appeared to be poor as he failed to acknowledge his personal responsibility. She further asserted that Mr Okunja demonstrated a notable lack of insight as he constantly failed to recognise and accept his own personal responsibility in the matter at hand. Ms Kennedy also submitted that the public interest required a finding of impairment to be made if the reputation of the profession and proper standards of behaviour were to be upheld. She referred to the cases of *Cohen v General Medical Council*, *Council for Healthcare Regulatory Excellence v Nursing and Midwifery Council* and *Paula Grant*.
71. The panel heard and accepted the advice of the legal adviser on impairment. That advice included reference to Social Work England's Impairment Guidance as well as the following points:
72. The existence of impairment is a matter for the panel's own independent judgment or assessment and, in considering whether Mr Okunja's fitness to practise was

impaired, the panel should take account of Social Work England's Impairment and Sanctions Guidance.

73. According to the Impairment Guidance, a social worker is fit to practise when they have the skills, knowledge, character and health to practise their profession safely and effectively without restriction. If a panel decides that a social worker's fitness to practise is impaired, this means that it has serious concerns about the social worker's ability to practise safely, effectively, or professionally.
74. As stated in *Meadow v General Medical Council* [2006] EWCA Civ 1390, the purpose of fitness to practise proceedings is not to punish the practitioner for past misdoings but to protect the public against the acts and omissions of those who are not fit to practise.
75. Protection of the public, as defined in s.37 of the Children and Social Work Act 2017, comprises protecting, promoting and maintaining the health, safety and well-being of the public, promoting and maintaining public confidence in social workers and promoting and maintaining proper professional standards for social workers. The panel should consider whether a finding of impairment is required for any or all of those three purposes.
76. The test for impairment, as set out by the court in *Council for Health and Regulatory Excellence v Nursing and Midwifery Council and Grant* [2011] EWHC 927 (Admin), is whether the panel's finding of misconduct in respect of Mr Okunja indicated that his fitness to practise is impaired in the sense that he had in the past (a) put service users at unwarranted risk of harm; (b) brought the social work profession into disrepute; (c) breached one of the fundamental tenets of that profession; in each case, was liable to do so in the future.
77. As stated in *Cohen v General Medical Council* [2008] EWHC 581 (Admin), at the impairment stage the tribunal should take account of evidence and submissions that the conduct (a) is easily remediable, (b) has already been remedied and (c) is highly unlikely to be repeated.
78. When assessing whether a finding of impairment is required in order to protect the health, safety and well-being of the public, the panel should consider the extent to which the social worker's conduct gave rise to harm or a risk of harm and the likelihood of that conduct being repeated. Assessment of the risk of repetition involves consideration of (i) the social worker's previous history and their conduct since the concerns about their conduct arose and (ii) the extent to which they have developed insight into their misconduct and (iii) the extent to which they have taken steps to remedy any failings on their part which led to that misconduct.
79. A finding of personal impairment is usually not needed if (a) the social worker has understood the causes of, and learnt from, any mistakes or misjudgements; and (b) there is no risk of repetition. However, the panel should also consider whether a

finding of impairment is required in order to maintain public confidence and proper professional standards (the so-called public component of impairment). Depending on the circumstances, a finding of impairment on these grounds can be necessary even where the social worker poses no current risk to the public.

80. When considering the testimonials submitted by a social worker, the panel should assess the content of each testimonial on the light of their knowledge of any relationship between author and social worker and on the basis of (i) the relevance of the content to the specific findings in the case; (ii) the extent to which the author's views are consistent with other available evidence; (iii) the length of time for which the author has known the social worker; and (v) the extent to which the testimonial offers a current view of the social worker's fitness to practise. In addition, the panel should give little weight to testimonials from persons who are not aware of the fitness to practise proceedings or the actions behind them.
81. The legal adviser reminded the panel that impairment was to be judged at the present date and that the personal component of impairment involved a careful assessment of the risks of repetition of the misconduct. Regardless of this, however, the panel was also obliged to consider whether the public interest required a finding of impairment to be made on the basis that the absence of such a finding would undermine the reputation of the profession in the eyes of a reasonable and fully informed member of the public.
82. Having determined that the proved facts amount to misconduct, the panel considered whether Mr Okunja's fitness to practise is currently impaired. When considering the question of impairment, the panel took into account Social Work England's 'Impairment guidance'. The panel had regard to the questions posed by Dame Janet Smith in her fifth Shipman report endorsed in the case of *Council for Healthcare Regulatory Excellence v Nursing and Midwifery Council and Grant* [2011] EWHC 927 Admin. In light of its findings on misconduct the panel concluded that Mr Okunja had, in the past: a). acted so as to put a member of the public at unwarranted risk of harm; b). brought the profession of social work into disrepute; c). breached fundamental tenets of the social work profession (in relation to safeguarding the vulnerable).

Allegation 1

83. Turning to the issue of impairment regarding the first allegation, the panel assessed whether Mr Okunja's misconduct results in an impairment of his fitness to practice. The panel noted that in *Cohen v General Medical Council*, the evaluation of impairment must consider the protection of the public, the need to maintain confidence in the profession, and the upholding of proper standards of conduct. The panel finds that Mr Okunja's actions indicate a significant risk of recurrence, reflecting a fundamental misunderstanding of the professional boundaries that are critical in social work. However, the panel acknowledges that this misconduct is remediable if appropriate reflection, training and actions are undertaken.

84. In this context, the panel recalled the criteria set out in the Grant case, which states that at the impairment stage, the panel should take into account evidence that the conduct (i) is easily remediable, (ii) has already been remedied; and (iii) is highly unlikely to be repeated. The panel noted that Mr Okunja's behaviour demonstrates a lack of insight into the consequences of his actions. His willingness to engage in personal communications with a service user suggests a concerning disregard for the ethical standards expected of him. This lack of awareness raises doubts about his ability to safeguard the interests of vulnerable individuals in the future. Notwithstanding, applying the guidance in the Cohen case the panel took into account that there has been no previous concerns raised about Mr Okunja's maintenance of boundaries in his ten year career. Consequently, the panel concluded that with proper training and a commitment to understanding, reflection on and adhering to professional boundaries, Mr Okunja can remediate his conduct effectively.
85. The panel concluded that the misconduct in allegation 1 resulted in current impairment of his fitness to practise.

Allegation 2

86. In assessing the impairment resulting from the second allegation, the panel evaluates the potential risks associated with Mr Okunja's actions. The assessment of impairment must take into account the need to protect the public and maintain confidence in the profession. The panel finds that forwarding confidential documents to a personal email account reflects a serious lapse in judgment, indicating a potential for future breaches of confidentiality. Mr Okunja has not yet remediated this aspect of his practice. The panel believes that it remains remediable through targeted training, reflection and a commitment to understanding confidentiality protocols, in line with the guidance from the Grant case regarding the importance of remediation in preserving public trust.
87. Moreover, the panel noted that Mr Okunja acknowledged his actions but attributed them to external pressures, suggesting a lack of personal responsibility for adhering to established protocols. This response raises concerns about his understanding of the importance of confidentiality and the ethical obligations of a social worker. The panel however applying the approach in the Cohen case concluded that with appropriate training, reflection, and a demonstration of accountability, Mr Okunja has the potential to remediate his conduct effectively.
88. The panel concluded that the misconduct in allegation 2 results in current impairment of his fitness to practise.
89. The panel was satisfied that a finding of current impaired fitness to practise was necessary to protect the public.

90. Further, as regards to the public impairment element, the panel considered that reasonable, well informed, members of the public would be shocked about Mr Okunja's inappropriate conduct.
91. Given that Mr Okunja's misconduct relates to breaches of fundamental tenets of social work, the panel was satisfied that professional standards would not be promoted and maintained by a finding that Mr Okunja's fitness to practise is not currently impaired, particularly considering the panel's assessment of him demonstrating limited insight and there being presently an absence of remediation.
92. The panel therefore concluded that, because of Mr Okunja's misconduct, a finding of current impairment of fitness to practise was necessary to protect the public, promote and maintain public confidence in the social work profession and declare and uphold proper professional standards of conduct and behaviour.
93. In addition the panel carefully analysed the character references provided by Mr Okunja. The panel concluded that these references had a narrow focus and did not demonstrate awareness and understanding of Allegation 1. The panel took this into account in its decision making.

Finding and reasons on Sanctions

94. Ms Kennedy submitted to the panel that, in reaching its decision on the appropriate sanction, it should refer to the Social Work England's Impairment and Sanctions Guidance and the necessary considerations for public protection and public interest. She emphasised that the panel should consider the available sections in ascending order, providing clear reasons for accepting or rejecting each option. She guided the panel through the relevant aggravating and mitigating factors, requesting that these considerations be taken into account in the decision making process. She submitted that a 12 months suspension order might be an appropriate sanction.
95. The panel accepted the advice from the legal adviser who reminded the panel that its function was not to punish Mr Okunja but to arrive at a proportionate outcome to the case having regard to its responsibility to protect the public and to uphold and maintain proper standards of conduct. The relevant principles could be found in Social Work England's Impairment and Sanctions Guidance and the panel should seek to identify aggravating and mitigating factors so as to ensure a proportionate approach. The sanction imposed should be proportionate in that it should be the minimum necessary for those purposes. It should also be consistent with the panel's decision on impairment. The consequences of a sanction for a social worker's personal circumstances should not usually affect the assessment of the appropriate and proportionate sanction. The purpose of a sanction is not to be

punitive but is to protect the public and the wider public interest. Sanction should be considered in ascending order, beginning with the least restrictive option

96. In making its decision the panel applied the guidance from Social Work England concerning impairment and the appropriate sanctions necessary for public protection and public interest, ensuring that any action taken is proportionate to the seriousness of the concerns raised. The panel took account of both aggravating and mitigating factors. After careful analysis of all the evidence and information, the panel determined that a 12-month suspension order is warranted.
97. Turning to the aggravating factors, the panel noted that Mr Okunja had exhibited only an embryonic level of insight into the seriousness of his actions. This limited understanding is troubling, particularly in light of the breaches of professional standards. There was also a breach of trust, concerning the expectations placed upon an experienced social worker like Mr Okunja. Such a breach undermines the integrity of the profession and erodes public confidence in social work as a whole. Furthermore, the panel identified a lack of transparency in Mr Okunja's conduct, specifically noting that he deleted the text messages he sent to Service User One. This action raises concerns about his willingness to take responsibility for his behaviour and to maintain professional integrity. The panel also highlighted the ongoing risk of repetition, which further emphasises the need for a firm response to the breaches identified.
98. In terms of mitigating factors, the panel recognised that there was no previous regulatory history in Mr Okunja's 10 years career, and it was evident that he was capable of good, safe practice. Mr Okunja has made admissions at a local level, expressed remorse through an apology, and engaged in training aimed at addressing confidentiality concerns. Disappointingly the content of this training was absent. The panel finds that these efforts do not sufficiently address the nature of the allegations or demonstrate the necessary depth of insight into the implications of Mr Okunja's actions. His current insight into his conduct is a concern, especially given the actual harm experienced by Service User One and the risk of harm to Child K.
99. The panel considered ascending sanctions, their appropriateness and proportionality in this case.
100. **No Further Action:** This option was deemed inappropriate as it would fail to address the nature of the breaches and would not provide adequate public protection, given the risks identified. It would leave Mr Okunja in unrestricted practice.
101. **Advice:** This option was deemed inappropriate as it would fail to address the nature of the breaches and would not provide adequate public protection, given the risks identified. It would leave Mr Okunja in unrestricted practice.

102. **Warning Order:** While a warning may serve as a deterrent, the panel concluded that it would not address the underlying concerns of insight and accountability. A warning would not facilitate the necessary reflection and remediation required in this case.
103. **Conditions of Practice Order:** Although this sanction could be suitable where a social worker demonstrates insight and can comply with specific conditions, the panel found that Mr Okunja has not shown sufficient understanding of the implications of his actions. Neither has he demonstrated sufficient insight or undertaken training. Additionally, given his current and prolonged residence in Uganda with limited access to a reliable internet connection, enforcing conditions would be impractical and unlikely to result in meaningful compliance. The combination of these factors mean that a conditions order is not appropriate or proportionate at this time.
104. After careful consideration, the panel determined that a 12-month Suspension Order is the most appropriate and proportionate course of action. This sanction allows Mr Okunja time to engage in meaningful reflection, training, and personal development, which are crucial for addressing the concerns raised. In the panel's assessment this would protect the public, enable Mr Okunja to reflect on the steps he needs to take to improve his practice. In addition, this order satisfies the public interest in sending a clear message that misconduct of this type would attract a significant sanction. Given Mr Okunja's prolonged period abroad until September 2025 and the time that he will need to demonstrate significant reflection, training and remediation the panel consider that the period of 12 months is both necessary and proportionate.
105. To assist Mr Okunja in preparing for the future review hearing, the panel suggests that the reviewing panel may be assisted by:
- Mr Okunja's attendance at the review hearing.
 - Evidence of Completed Training: Mr Okunja should complete relevant training focused on confidentiality including handling sensitive information, professional boundaries, and ethical practice. Certificates of completion or attendance at workshops should be submitted and learning outcomes identified.
 - Reflective Practice Documentation: Preferably using a recognised reflective tool, such as Gibbs, Mr Okunja should provide a written detailed reflective piece focusing on the issues identified in his misconduct. This reflection should include how his practice impacted on Service User 1 and the potential risk to Child K; how he will take steps to prevent any repetition in his future practice. This could include reference to the impact of any training he undertakes.
 - Testimonials from Colleagues: Mr Okunja may gather new testimonials from any third parties concerning any work he undertakes whether paid or unpaid.

- **Engagement Evidence:** Documentation showing any efforts to engage with professional networks, mentorship, or other forms of professional development during the suspension period.

106. The panel considers that by addressing these elements, Mr Okunja may demonstrate his commitment to remediate the concerns identified to ensure that he can practice safely and effectively in the future. The panel concluded that a suspension order, coupled with these steps, strikes the right balance between public safety, proportionality, and the social worker's opportunity for rehabilitation.

107. **Removal Order:** The panel concluded that a removal order would not be appropriate in this case for several reasons. While Mr Okunja's conduct represents breaches of professional standards, he has engaged with the proceedings to some extent, demonstrating a willingness to acknowledge and address his actions. A removal order would effectively terminate his ability to practice as a social worker, which would be a disproportionate response given that the panel believes there remains potential for rehabilitation and improvement. Furthermore, a removal order would not foster the opportunity for him to demonstrate his capacity for change and growth. The panel believes in the value of supporting practitioners who show a commitment to learning from their mistakes and improving their practice, rather than imposing a permanent barrier to their professional development.

Interim Order

108. The panel next considered an application by Ms Kennedy for an interim suspension order for 18 months to cover the appeal period before the final order becomes effective.

109. The panel heard and accepted the advice of the legal adviser on its power to make an interim order under paragraph 11(1)(b) of Schedule 2 of the Social Workers Regulations 2018.

110. The panel was mindful of its earlier findings and decided that it would be wholly incompatible with those findings not to impose an interim order. The panel considered paragraph 207 of the impairment and sanctions guidance which highlighted that *"an interim order may be necessary where the adjudicators have decided that a final order is required, which restricts or removes the ability for the social worker to practise...without an interim order, the social worker will be able to practise unrestricted until the order takes effect. This goes against our overarching objective of public protection"*. The panel had identified a risk of repetition if Mr Okunja was permitted to practise without restriction.

111. The panel concluded that the interim suspension order was the most prudent way to ensure the protection of the public. Accordingly, the panel concluded that an 18

month interim suspension order is necessary. The period of 18 months is necessary to cover the time it takes for any appeal to be heard. When the appeal period expires this interim order will come to an end unless an appeal has been filed with the High Court. If there is no appeal, the final order of suspension shall take effect when the appeal period expires.

Right of appeal

112. Under Paragraph 16(1)(a) of Schedule 2 of the regulations, the social worker may appeal to the High Court against the decision of adjudicators:
- a. the decision of adjudicators:
 - i. to make an interim order, other than an interim order made at the same time as a final order under Paragraph 11(1)(b),
 - ii. not to revoke or vary such an order,
 - iii. to make a final order.
 - b. the decision of the regulator on review of an interim order, or a final order, other than a decision to revoke the order.
113. Under Paragraph 16(2) of Schedule 2 of the regulations an appeal must be filed before the end of the period of 28 days beginning with the day after the day on which the social worker is notified of the decision complained of.
114. Under Regulation 9(4) of the regulations this order may not be recorded until the expiry of the period within which an appeal against the order could be made, or where an appeal against the order has been made, before the appeal is withdrawn or otherwise finally disposed of.
115. This notice is served in accordance with Rules 44 and 45 of the Social Work England Fitness to Practice Rules 2019 (as amended).

Review of final orders:

116. Under Paragraph 15(1), 15(2) and 15(3) of Schedule 2 of the regulations:
- 15(1) The regulator must review a suspension order or a conditions of practice order, before its expiry
 - 15(2) The regulator may review a final order where new evidence relevant to the order has become available after the making of the order, or when requested to do so by the social worker

- 15(3) A request by the social worker under sub-paragraph (2) must be made within such period as the regulator determines in rules made under Regulation 25(5), and a final order does not have effect until after the expiry of that period

117. Under Rule 16(aa) of the rules a social worker requesting a review of a final order under Paragraph 15 of Schedule 2 must make the request within 28 days of the day on which they are notified of the order.

The Professional Standards Authority:

118. Please note that in accordance with section 29 of the National Health Service Reform and Health Care Professions Act 2002, a final decision made by Social Work England's panel of adjudicators can be referred by the Professional Standards Authority ("the PSA") to the High Court. The PSA can refer this decision to the High Court if it considers that the decision is not sufficient for the protection of the public. Further information about PSA appeals can be found on their website at:
<https://www.professionalstandards.org.uk/what-we-do/our-work-with-regulators/decisions-about-practitioners>.