

Social worker: Lilian Matopodzi

Registration number: SW119713

Fitness to Practise

Final Hearing

Dates of hearing: 10 March 2025 to 13 March 2025

Hearing venue: Remote hearing

Hearing outcome:

Fitness to practise impaired, warning order (3 years)

Introduction and attendees:

1. This is a hearing held under Part 5 of The Social Workers Regulations 2018 (as amended) (“the regulations”).
2. Ms Lilian Matopodzi attended but was not represented.
3. Social Work England was represented by Mr Fred Batstone case presenter instructed by Capsticks LLP.

Adjudicators	Role
Manuela Grayson	Chair
Beverley Blythe	Social worker adjudicator
Moriam Bartlett	Lay adjudicator

Hearings team/Legal adviser	Role
Nicole Dente	Hearings officer
Kathryn Tinsley	Hearings support officer
Gemma Gillet	Legal adviser

Preliminary matters:

4. Ms Matopodzi attended and confirmed that she had received the notice of hearing and relevant witness statements and exhibits. No issues were raised in relation to service. The statements of Ananya Edmunds and Isobel Hynes were agreed by the parties.

Allegations:

5. The allegation arising out of the regulatory concerns referred by the Case Examiners on 16 March 2022 is:

Whilst registered as a social worker between approximately 5 March 2018 and 22 February 2022, you:

1.1 On one or more occasion, drove a vehicle unaccompanied by an appropriate person whilst only subject to a provisional driving licence and/ or without valid insurance and/ or;

1.2 On one or more occasion at 1.1, you drove service users and/or their children.

1.3 Your conduct at 1.1 and/ or 1.2 was dishonest.

The matters set out at paragraphs 1.1 – 1.3 constitute misconduct.

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

Admissions:

6. Rule 32c(i)(aa) Fitness to Practise Rules 2019 (as amended) (the 'Rules') states:
Where facts have been admitted by the social worker, the adjudicators or regulator shall find those facts proved.
7. Following the reading of the allegations the panel chair asked Ms Matopodzi whether she admits any of the allegations. Allegations 1.1 and 1.2 were admitted, whereas allegation 1.3 was denied.
8. The panel therefore found allegations 1.1 and 1.2 proved by way of Ms Matopodzi's admissions.
9. In line with Rule 32c(i)(a) of the Rules, the panel then went on to determine the disputed facts of allegation 1.3.

Summary of evidence:

10. Mr Batstone on behalf of Social Work England submitted that the background to the allegations was as follows:
 - On 17 December 2020, Social Work England received an anonymous referral from a member of the public regarding the Respondent social worker, Lilian Matopodzi.
 - At the relevant time, Ms Matopodzi was employed as a social worker in a Safeguarding Team at Northampton County Council from 2018 and held a caseload of child in need, child protection and child in care cases. Ms Matopodzi had informed the Council when she had applied for the role that she only held a provisional driving licence and that she was planning to take her driving test.
 - On around 7 December 2020, Northampton County Council had received the same anonymous letter to their HR department, which alleged that the Social Worker had been driving service users or children of service users and her own children placing other road users at risk by driving without a licence.
 - Northampton County Council investigated the concern, after which Social Work England's investigation commenced. During the internal investigation Ms Matopodzi admitted that although she had held a full driving licence in Zimbabwe, she only held a provisional UK driving licence. She also confirmed that she was aware that a provisional driving licence holder must be accompanied by another adult driver over the age of 21, but that she had driven unaccompanied. She estimated that she had driven service users, including babies on possibly three different occasions.
 - Driving outside the terms of the provisional driving licence would self-evidently invalidate the insurance policy.

11. On behalf of Social Work England, Mr Batstone called Janet Dowling and Tracey O'Reilly (Ms Matopodzi's line manager at the relevant time) to give evidence.
12. Janet Dowling was the investigator on behalf of Northampton County Council. She gave her evidence under affirmation and adopted the contents of her witness statement. Ms Dowling confirmed in evidence that during the investigation interview Ms Matopodzi had told her she believed she had been able to drive because she had been a full licence holder but on two other occasions during the same interview said that she knew she couldn't drive on her own with her provisional licence. She confirmed that it would have been possible to do Ms Matopodzi's role at Northampton County Council without a full driver's licence, but this would have required a supervisor's knowledge and support.
13. Tracey O'Reilly is a qualified social worker and is currently a Safeguarding Team Manager at Northamptonshire County Council. She had been Ms Matopodzi's line manager for approximately a year before the concerns were first raised. She gave her evidence under affirmation and adopted the contents of her two witness statements. She confirmed that she became aware through the Human Resources department that concerns had been raised and had had an informal conversation with Ms Matopodzi as a result, where she admitted that she only had a provisional driving licence. Ms O'Reilly was concerned that as a result Ms Matopodzi had not demonstrated the expected level of honesty required of social workers, but had also been aware that Ms Matopodzi had personal issues at the time. She said that it would be a social worker's responsibility to ensure they have a licence and full insurance in place. Ms O'Reilly had formed the opinion that Ms Matopodzi knew she was driving when she shouldn't. During cross examination, Ms Matopodzi suggested that she had informed Ms O'Reilly of the allegation before Human Resources had contacted her. Ms O'Reilly accepted that her recollection was unclear on this point. Ms O'Reilly confirmed that she had not had any concerns about Ms Matopodzi's social work practice or character during her time as her manager.
14. Ms Matopodzi gave evidence under oath and answered questions from Mr Batstone and the panel. She stated that by 2018 she had been aware that she was unable to drive unaccompanied on her provisional driver's licence but had sat the UK drivers' theory test on at least ten occasions and kept failing. Ms Matopodzi told the panel that she had continued to drive even though she knew she was not allowed to, but her primary focus had been on getting to work and performing as a good social worker. She thought at the time that her employer assumed she had a full licence because she hadn't told them otherwise. She knew her line manager, Ms O'Reilly had seen her drive and she had submitted travel expenses for her use of her car for work purposes.
15. Ms Matopodzi told the panel that she had only driven with one family of service users in her car on two occasions. When she had offered to drive the family home from the maternity hospital it had crossed her mind that she didn't have a full licence, but her judgment was clouded as she wanted to do good by the family who did not have a lot of confidence in the social work profession. She had wanted to show them that social

workers could be helpful and supportive. There had been times during her employment that she had wanted to tell her manager that she did not have a full licence, but she had thought she would pass her theory test much more quickly and therefore she would have no need to say anything. She had felt very guilty about this, but her intention had not been to be dishonest, only to do a good job as a social worker for the families she worked with. Ms Matopodzi provided the panel with a positive testimonial which attested to her usual honesty and good character.

Finding and reasons on facts:

16. The panel heard and carefully considered the submissions made by Mr Batstone and Ms Matopodzi. The panel took into account the advice of the legal adviser which included the relevant two stage test of dishonesty, namely:

“First ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of [her] belief may evidence whether [she] held the belief, but it is not an additional requirement that [her] belief must be reasonable; the question is whether it is genuinely held.”

And

[Second,] “whether [her] conduct was dishonest by applying the objective standards of ordinary decent people. It is not necessary for the individual to appreciate that what [she] has done is, by those standards, dishonest.”

17. In particular the panel’s attention was drawn to the principles in the relevant caselaw, including *Uddin v GMC* [2012] EWHC 2669 (Admin), and the necessity to ask themselves whether there is an alternative explanation for the Registrant’s conduct that demonstrates likely innocent, negligent or careless acts /motivation rather than likely dishonest conduct or motivation.
18. The panel were reminded of the relevant passages in the Statement of Case, prepared on behalf of Social Work England, which stated:
- “The adjudicators may consider that a member of the public might think that the Social Worker’s conduct at paragraph 1.1 and 1.2 was unlawful, a significant error of judgement, dangerous or foolish, but the adjudicators should carefully assess whether the fact of driving in contravention of the limits to a provisional drivers’ licence is in and of itself, dishonest and would be considered to be dishonest by a member of the public.”*
19. The panel found allegations 1.1 and 1.2 proved by way of admissions.
20. The panel found that there was little or no dispute between the parties about the factual background of the case. The only issue that remained to be determined was what was Ms Matopodzi’s state of mind at the time she drove in contravention of the limits to a provisional driving licence and would it be considered to be dishonest by a member of the public.

21. The panel first considered whether the evidence demonstrated a likely innocent, careless or negligent conduct rather than a dishonest one. The panel considered that this had not been a one-off event, which might have suggested a careless or negligent action. The evidence proved and Ms Matopodzi had admitted that she had driven alone on a provisional driving licence for the purpose of work on numerous occasions and over a sustained period of time.
22. The panel found that Ms Matopodzi had been very open and candid in her evidence and had admitted to the panel that she had known at the time that what she was doing was wrong and that she believed her line manager assumed she had a full licence. Although Ms Matopodzi had told the truth about her provisional licence when she had applied for the role and there was no evidence that she had been asked again, she had actively withheld the relevant information when her role had changed and required more travel and allowed her manager to remain in the dark. Ms Matopodzi accepted in evidence that she knew when she drove the service user and family on the two occasions that they would have assumed she had a full driver's licence and the requisite insurance but did not correct that assumption. The panel found that this conduct was dishonest applying the objective standard of ordinary decent people, and therefore allegation 1.3 was found proved.
23. The panel considered that the dishonesty was at the lower end of the scale and was primarily motivated by a genuine desire to do her job to the best of her abilities.

Finding and reasons on grounds:

24. The panel heard submissions from Mr Batstone of Social Work England and Ms Matopodzi. Mr Batstone made submissions in relation to misconduct and referred the panel to the relevant law and professional standards.
25. Ms Matopodzi told the panel that she was sincerely sorry for driving on a provisional licence. Although she knew it was wrong, at the time she had not considered that her actions were a risk to other road users or passengers as she had been a fully qualified driver in Zimbabwe. She was thankful that no one had been hurt by her driving and reminded the panel that her motivation for driving had been her love of the profession and her desire to do her best by the service users.
26. The panel accepted the advice of the legal adviser and noted that the decision on misconduct was a matter of judgement for the panel and that there was no burden or standard of proof.
27. The panel was referred to the case of *Roylance v General Medical Council (No.2)*[2000] 1 AC311 which defines misconduct as a '*word of general effect, involving some act of omission which fall short of what would be proper in the circumstances*'. The caselaw is also clear that the misconduct must be serious.
28. The panel determined that the facts admitted and found proved amounted to a serious breach of the following standards:
- HCPC (2016) Standards of conduct

6.2 You must not do anything, or allow someone else to do anything, which could put the health and 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.

Social Work England Professional Standards (2019)

2.1 Be open, honest, reliable and fair.

5.2 Behave in a way which would bring into question my suitability to work as a social worker while at work, or outside work.

29. The panel were mindful that not every falling short of the standards amounts to the statutory ground of misconduct. However, the panel concluded that Ms Matopodzi's breach would be considered deplorable by fellow practitioners and was sufficiently serious to amount to misconduct. In reaching this conclusion it took into account the following:

- The admitted facts of driving a vehicle on a provisional licence unaccompanied by an appropriate person and without valid insurance is itself evidently serious as doing so is unlawful.
- Ms Matopodzi had driven as part of her professional role and the two occasions where she had driven with service users, including a baby, in her car.
- Her actions had put service users and members of the public at risk.
- This had not been a single act but had been a sustained behaviour, repeated over a period of time.
- The panel had found that her actions had been dishonest.

Finding and reasons on current impairment

30. The panel heard representations from Mr Batstone and Ms Matopodzi in relation to the issue of current impairment and legal advice from Ms Gillet. The panel carefully considered the positive character references submitted by Ms Matopodzi and her CPD record. When considering the question of impairment, the panel took into account Social Work England's 'Impairment and sanctions guidance'.

31. The panel was mindful of the advice in *Cohen v GMC* [2008] EWHC 581 (Admin), quoted with approval in *Grant*, which states:

"It must be highly relevant in determining if a doctor's fitness to practice is impaired that first his or her conduct which led to the charge is easily remediable, second that it has been remedied and third that it is highly unlikely to be repeated."

32. The panel considered insight and remediation and was mindful of the guidance in the Grant case and the tests it identified:

“Do the findings show that fitness to practise is impaired in the sense that:

a) Has the Registrant in the past acted and/or is liable in the future to act in a way so as to put service users at unwarranted risk of harm;

b) Has the Registrant in the past brought and/or is liable in the future to bring the profession into disrepute;

c) Has the Registrant in the past breached and/or is liable in the future to breach one of the fundamental tenets of the profession;

d) Has the Registrant in the past acted dishonestly and/or is liable to act dishonestly in the future?”

33. In considering whether Ms Matopodzi’s fitness to practise is currently impaired the panel consider the following two elements separately, namely:

- The personal element, established via an assessment of the risk of repetition
- The public element, established through consideration of whether a finding of impairment might be required to maintain public confidence in the social work profession, or in the maintenance of proper standards for social workers.

34. In reaching its conclusion on the personal element (the likelihood of repetition), the panel made the following findings:

- Ms Matopodzi in dealings with her employer had made full admissions from the outset and throughout the employer’s investigation and volunteered additional information in relation to occasions on which she had driven with service users in the car.
- Ms Matopodzi had taken full responsibility for her conduct and had expressed genuine remorse throughout. She had provided a detailed reflective account in 2021 and submitted further reflections and insight during the proceedings.
- Ms Matopodzi had attended the hearing and contributed openly and fully during the proceedings.
- Despite not working due to personal issues, Ms Matopodzi had kept up to date with her CPD and the panel took into account that some of this was directly related to the issues highlighted in this case.
- Ms Matopodzi had demonstrated genuine and complete insight into the risk to service users, members of the public and the public confidence in the profession as a whole.
- Ms Matopodzi had provided three testimonials from people who were aware of the concerns raised and attested to her good character.

35. The panel found that there was a very low risk Ms Matopodzi would drive without a proper licence or insurance again. She has now passed her driving theory test and the salutary effect of losing her job and these proceedings would ensure her judgment would not be clouded again.
36. The panel was mindful that matters of dishonesty are often very difficult to remediate. However, considering the specific facts of this case and the findings reached as set out in paragraph 34 above, the panel concluded that the dishonest conduct was not an example of an entrenched attitudinal issue and found that in light of the insight, remorse and remediation shown by Ms Matopodzi, it was “highly unlikely to be repeated”. The panel took into account the unusual facts of the case in that she had informed her employer when she took up her employment that she only had a provisional driving licence. The panel did not consider the fact that she had not admitted dishonesty to be relevant to the issue of insight and remediation. The panel concluded Ms Matopodzi was not personally impaired.
37. The panel went on to consider whether a finding of current impairment was required to maintain public confidence in the social work profession, or in the maintenance of proper standards for social workers. The panel was mindful that Ms Matopodzi had breached several professional standards when driving alone when she knew she was not permitted to do so including with service users in the car. It was also aware that dishonesty cases are likely to be viewed as serious by members of the public and had careful regard to Social Work England’s ‘Impairment and sanctions guidance’ on this point. The panel agreed that honesty is key to good social work practice as social workers are routinely trusted with access to people’s homes and highly sensitive and confidential information. Although the panel had concluded that on the particular facts of this case there was a low risk of repetition and that the dishonesty had been at the lower end of the scale, any dishonest conduct is damaging to public confidence. The panel therefore concluded that a finding of impairment was required to maintain public confidence in the profession.

Decision and reasons on sanction :

38. Mr Batstone made submissions on sanction and referred the panel to Social Work England’s ‘Impairment and sanctions guidance’. He reminded the panel that they must make the least restrictive sanction necessary to maintain public confidence in the profession. He identified the following mitigating and aggravating features the panel may wish to take into account at this stage in their deliberations:

Mitigating features

- Clear evidence of remorse and insight exhibited by Ms Matopodzi’s early admissions to the factual matrix of the concerns.
- Ms Matopodzi’s evidence of apologies and efforts to prevent reoccurrence.

- Ms Matopodzi's difficult personal circumstances at the time of the conduct.
- Ms Matopodzi's good character, reflected by the testimonials and evidence of her line manager.
- The accepted role her employer had played by failing to follow the required steps to review driving licence documentation.

Aggravating features

- the conduct had been repeated on more than one occasion.
- A potential risk to service users

39. Mr Batstone invited the panel, given their findings on misconduct and impairment, to find that the most suitable sanction may be a Warning Order.
40. Ms Matopodzi apologised again for her conduct and acknowledged the impact of such behaviour on the public confidence in the profession. She promised that in the future she will always be honest, uphold the standards of the profession and do what is right. She asked the panel to allow her to return to work, when her personal circumstances allow, without restriction or with as little restriction as necessary.
41. The panel accepted the advice of the legal adviser who reminded it that the purpose of a sanction was not to punish Ms Matopodzi but to protect the public and the wider public interest. The panel were reminded of the sanctions available and of the need to consider any aggravating and mitigating factors it sees fit. The panel was also asked to ensure that when considering sanctions, it begins with the lowest sanction and moves through all the available sanctions in ascending order of seriousness, before identifying the sanction it agrees is sufficient to protect the public and maintain confidence in the profession and uphold professional standards.
42. The panel had regard to the 'Impairment and sanctions guidance' and agreed with the submissions of Social Work England in relation to the relevant mitigating and aggravating features in this case.

No action and Advice

43. The panel decided that neither no action or advice were appropriate as this would be insufficient to properly mark the misconduct found in this case which included a finding of dishonesty and uphold the confidence of the public in the profession as a whole.

Warning

44. The panel decided that a three-year warning order is the appropriate sanction. It was satisfied that this accurately reflected the failings in Ms Matopodzi's conduct and ensured the wider public interest considerations were met. Although this had not been an isolated incident, as Ms Matopodzi had driven on a number of occasions, it was a contained and discreet course of conduct. The panel also found that there was a low risk of repetition and Ms Matopodzi had demonstrated insight. The panel considered that a member of the public fully aware of the case would be of the opinion that a

warning order would be sufficient to send a strong message of disapproval in respect of the conduct.

45. The panel did not consider it possible to formulate appropriate conditions of practice in this case and found that a suspension order would be disproportionate.
46. In considering the proportionate duration of the warning, the panel considered that a period of one year would not be sufficient to reflect the seriousness of the proven facts and that a period of three years was necessary to maintain public confidence and highlight the professional standards, which should be adhered to by social workers at all times.

Right of appeal

47. 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.
48. 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.
49. 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.
50. 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:

51. 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

52. 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:

53. 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>.