

Social worker: John Mensah

Registration number: SW88522

Fitness to Practise

Final Order Review hearing

Date of hearing: 20 March 2025

Hearing venue: Remote hearing

Final order being reviewed:
Suspension order (expiring 30 April 2025)

Hearing outcome:
Removal order

Introduction and attendees:

1. This is the fourth review of a final suspension order originally imposed as an accepted disposal by the Case Examiners on 24 April 2023 for a period of 6 months. At the first review hearing on 23 October 2023, the suspension order was extended by a further period of 6 months. At the second review hearing on 25 April 2024, the suspension order was again extended for a period of 6 months. At the third review hearing on 20 September 2024, the suspension order was again extended for a period of 6 months.
2. Mr Mensah attended the hearing and was not represented.
3. Social Work England was represented by Ms Adjoa Adjei-Ntow, case presenter instructed by Capsticks LLP.

Adjudicators	Role
Kerry McKevitt	Chair
Sabraj Akhtar	Social worker adjudicator

Hearings team/Legal adviser	Role
Paige Swallow	Hearings officer
Ruby Wade	Hearings support officer
Rosemary Rollason	Legal adviser

Preliminary matters:

4. Ms Adjei-Ntow applied for the hearing to take place partly in private. Mr Mensah agreed.
5. The panel heard and accepted the advice of the legal adviser who referred to rules 37 and 38 of Social Work England's Fitness to practise rules 2019 (as amended) ("the rules").
6. The panel noted that in accordance with rule 37, Social Work England hearings usually take place in public, subject to the discretion to depart from that principle provided for in rules 38(a) and (b). Given that the accepted regulatory findings in this case relate purely to Mr Mensah's behaviour and conduct [PRIVATE], the panel decided that the grounds in rule 38(b) applied, namely that the proceedings may directly identify [PRIVATE] and therefore their right to a private life would be impinged if the hearing proceeds entirely in public. The panel also noted that the previous review hearing was held partially in private in order to protect the Registrant's private life.
7. The panel was therefore satisfied it was in the public interest that this hearing should be held partly in private.

Review of the current order:

8. 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).
9. The current order is due to expire on 30 April 2025.

The allegations giving rise to the accepted disposal which resulted in the imposition of the final order were as follows:

10. As recorded in a final decision dated 23 April 2023, Case Examiners appointed by Social Work England determined that there was a realistic prospect that adjudicators would determine that Mr Mensah's fitness to practise was impaired on the grounds of misconduct on the basis of the following the regulatory concerns:
 1. [PRIVATE]
 2. [PRIVATE]
 3. [PRIVATE]
11. The Case Examiners also determined that it was not in the public interest to refer the case to a final hearing and proposed to dispose of the case by making a six-month final suspension order in respect of Mr Mensah.
12. Mr Mensah consented to that proposed disposal on 24 April 2023.
13. The case was returned to the Case Examiners on 25 April 2023. The Case Examiners determined to accept Mr Mensah's response. The Case Examiners remained satisfied that an accepted disposal by way of a suspension order for 6 months, was a fair and proportionate disposal and was the minimum necessary to protect the public and the wider public interest.

The previous final order review panel on 20 September 2024 determined the following with regard to impairment:

14. *'The panel first considered whether Mr Mensah's fitness to practise remains impaired. It kept in mind that there had already been a finding of impairment and asked itself whether Mr Mensah had demonstrated that he had taken sufficient steps to allay the concerns of the previous panel.'*
15. *The panel concluded that Mr Mensah's fitness to practise remains impaired, having regard to both the personal and the public interest for the same reasons as the previous panel.'*

16. *The panel noted that Mr Mensah has not engaged with Social Work England since the hearing in April 2024 and has therefore provided no evidence of any further steps which he has taken towards positively responding to the recommendations of that panel. Whilst it is not mandatory for Mr Mensah to have adhered to those recommendations, the panel considered that even with a suspension order in place, the recommendations would have enabled and assisted Mr Mensah to provide relevant information for the review.*
17. *The panel took into account that Mr Mensah has in the past consistently engaged with Social Work England. He has not only attended the previous two review hearings, but he has also previously provided documentation in readiness for those hearings to support his case that he should be able to return to practise as a social worker.*
18. *In the absence of any new evidence from Mr Mensah that he is addressing the risks previously identified, the panel decided that he has not discharged the persuasive burden of demonstrating that he has sufficiently addressed all of the outstanding concerns. The panel considered that the risk to the public remained.*
- Further, considering the absence of any evidence to suggest that Mr Mensah's insight and remediation have further developed, together with his lack of engagement in this review hearing, the panel concluded that a failure to find Mr Mensah impaired would undermine public confidence in the profession and the regulator.'*

The previous final order review panel on 20 September 2024 determined the following with regard to sanction:

19. *'The panel first considered taking no further action and allowing the current suspension order to lapse upon expiry or to revoke it with immediate effect. The panel took into account that these steps would not restrict Mr Mensah's ability to practise as a social worker and would not address the residual risk of repetition which has been identified. As a result, the panel concluded that options that would not restrict practice would be inappropriate and insufficient to meet the public interest.*
20. *For the reasons set out at paragraph 57, the panel concluded that an outcome of advice or warning would not be appropriate as they do not directly restrict practice.*
21. *The panel next considered whether a conditions of practice order would be appropriate and proportionate. It noted that the (accepted) misconduct in Mr Mensah's case as identified by the Case Examiners, was behavioural in nature and occurred outside of the working environment. The panel also noted that it had no evidence about Mr Mensah's current employment or whether he would be willing to comply with conditions of practice. Therefore, the panel decided that conditions of practice would not be suitable.*
22. *The panel next considered whether to extend the current suspension order for a further period of time. The panel took into account that a suspension order would prevent Mr*

Mensah from practising during the suspension period, which would therefore protect the public and the wider public interest.

23. The panel noted that the ‘sanctions guidance’ states that a suspension order 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)’

24. The panel concluded that this case does fall short of requiring removal from the register. Whilst Mr Mensah has not attended this review or provided any further information, this appears unusual, given his previous consistent engagement with the process. Previous panels have found that he has evidenced some insight and some remediation and that he showed a willingness to resolve matters and to remediate his failings. The panel concluded that a removal order would be disproportionate at the current time given the steps and opportunities that Mr Mensah has previously taken to evidence his developing insight. His disengagement is recent and out of character in the context of the fitness to practice process as a whole.

25. The panel determined that the suspension order should be extended for a period of six months. The panel was satisfied that this period was appropriate because it would allow Mr Mensah a brief period of time to re-engage whilst also protecting the public. It would also avoid prolonging the suspension for such a length of time that Mr Mensah is at risk of becoming deskilled as a social worker.

26. As set out above, the panel was aware that a removal order was an option available to it today and a future reviewing panel would also have this option open to it if it found continued impairment. Mr Mensah should appreciate that if the next review panel considers that he has not taken the opportunity to re-engage with Social Work England and provide further evidence, there is a risk that he will be removed from the social work register.

27. This panel cannot bind a future panel. However, a future reviewing panel would expect Mr Mensah to attend the review hearing, and it would be of assistance to that panel if he was able to provide evidence that he had undertaken steps that would facilitate a safe and effective return to the register without restriction. This may include:

- *Testimonials regarding his character, knowledge and skills and the development of insight into his misconduct.*
- *Evidence that he has kept his knowledge and skills up to date (e.g. evidence of continued professional development).’*

Social Work England submissions:

28. Ms Adjei-Ntow submitted that Social Work England's position was that a removal order was appropriate on the basis that it was necessary for the protection of the public. Ms Adjei-Ntow submitted that the late submission of information from Mr Mensah had deprived the panel of the opportunity to be satisfied that there has been a behavioural change on his part. The panel could not be satisfied that there was genuine and lasting change. Further, there was no independent evidence of any courses Mr Mensah had attended or confirming that his behaviour or character had changed.
29. Ms Adjei-Ntow observed that until very recently, Mr Mensah had not engaged meaningfully with Social Work England or Capsticks and she referred to previous communications to Mr Mensah seeking engagement with him.
30. Ms Adjei-Ntow noted that whilst the previous review panel had considered there was sufficient evidence of insight, they had commented on the absence of evidence relating to Mr Mensah's current character and behaviour and concluded he had not addressed all their concerns. They concluded there remained a risk of repetition and therefore a risk to the safety of the public.
31. Ms Adjei-Ntow said that Social Work England submitted that a removal order was now appropriate. It was not considered that a further period of suspension would be likely to result in any further evidence being provided. Ms Adjei-Ntow noted that the previous review panel had made Mr Mensah aware that if non-engagement continued, a future reviewing panel would be able to consider removal from the register. Despite this being made clear, Mr Mensah had not engaged sufficiently and did not appear willing or able to address his failings.

Social Worker submissions

32. Mr Mensah gave brief oral evidence and referred to his written submission dated 20 February 2025.
33. Mr Mensah told the panel in his submission that he sincerely apologised for his inconsistent communication with Social Work England which had not been intentional.
34. In relation to the subject matter of the allegations, [PRIVATE]. He said that he understood the severity of his actions and the impact they had on those around him. After years of reflection, education and personal growth he was asking the panel to restore his suspended registration.
35. Mr Mensah said that he had taken full responsibility for his actions [PRIVATE]. He was aware that his behaviour was inexcusable [PRIVATE].
36. [PRIVATE]

37. Mr Mensah stated that he has kept his knowledge and skills up to date by reading articles journals including a Community Care article [PRIVATE]. He speaks with practising social work colleagues who support him to have regular reflections to keep his skills and knowledge up to date.
38. Mr Mensah said that he was aware that the restoration of his registration was not a decision to be taken lightly and he was willing to comply with any requirements or conditions set by Social Work England. He was determined to make amends for his actions and prove that he was a changed person.
39. Mr Mensah referred to email statements submitted in his support from Person A, dated 11 March 2025, [PRIVATE], dated 27 February 2025.

Person A

40. Person A stated that he is a registered social worker currently in social work employment. He told the panel he was speaking in his personal capacity. He stated that he had known Mr Mensah and his family for over 15 years in a personal and professional capacity. When Mr Mensah first qualified as a social worker, he shadowed Person A who was working as a team manager within Children's Services whilst he (Mr Mensah) was undertaking his Masters social work degree course.
41. Person A said he has been aware of Mr Mensah's [PRIVATE] for some time now. Person A said that Mr Mensah has demonstrated remorse for his behaviour which he considered may partly be due to the training and other resources [PRIVATE]. He was aware that Mr Mensah had read articles and information to keep up to date with his professional standards and CPD. Person A asked the panel to take this information into account and allow Mr Mensah to continue to practise as a social worker to help and support vulnerable people in the community.

[PRIVATE]

42. [PRIVATE]

Panel decision and reasons on current impairment:

43. In considering the question of current impairment, the panel undertook a comprehensive review of the final order in light of the current circumstances. It took into account the decisions of previous panels. However, it exercised its own judgement in relation to the question of current impairment. The panel also took into account Social Work England's 'Impairment and sanctions guidance'.
44. The panel heard and accepted the advice of the legal adviser, which it incorporated into the decision set out below.
45. The Panel reminded itself of its powers under Paragraph 15 of schedule 2, part 5 of the Social Worker Regulations 2018.

46. It reminded itself of the importance of a review hearing, and it followed the sequence of decision making set out by Blake J in *Abrahaem v General Medical Council* [2008] EWHC 183:

- Address whether the fitness to practise is impaired before considering the appropriate sanction.
- Whether all the concerns raised in the original finding of impairment have been sufficiently addressed to the panel's satisfaction.
- In practical terms there is a persuasive burden on the practitioner at a review to demonstrate that he or she has fully acknowledged why past professional performance was deficient and through insight, application, education, supervision, or other achievement sufficiently addressed the past impairments. The panel note that the case of *Abrahaem* concerned alleged deficient professional performance. However, it finds that the persuasive burden applies equally to cases such as this, which involve misconduct.

47. The panel had regard to the over-arching objective of protecting the public which involves the pursuit of the following objectives:

- To protect, promote and maintain the health, safety, and well-being of the public.
- To promote and maintain public confidence in the profession.
- To promote and maintain proper professional standards of conduct for members of the profession.

48. The Panel also bore in mind that in deciding whether Mr Mensah's fitness to practise is still impaired it should follow the approach of Dame Janet Smith endorsed by the High Court in *CHRE v NMC and P Grant* [2011] EWHC 927 (*Admin*).

49. The panel first considered whether Mr Mensah's fitness to practise remains impaired. It kept in mind that there had already been a finding of impairment and the panel considered whether Mr Mensah had demonstrated that he had taken sufficient steps to allay the concerns of the previous panel.

50. The panel acknowledged that Mr Mensah had, in contrast to the last review in September 2024, participated in the hearing, as that previous panel had recommended he should do. However, that engagement had been last minute and followed a period of lack of engagement with Social Work England.

51. Mr Mensah had produced two supportive statements, from Person A [PRIVATE]. The latter statement was only provided to the panel at the hearing, albeit it was dated 27 February 2025. The panel found the statement of Person A of limited assistance in that

it did not address how Mr Mensah had developed his skills or applied the knowledge he says he has gained in practical situations. [PRIVATE].

52. The panel was concerned that the two testimonials provided did not address in sufficient depth the issues identified by the previous reviewing panels relating to Mr Mensah's '*character, knowledge and skills, and development of insight into his misconduct*'. The panel would have wished to see further testimonials addressing these issues and considered that the issues required to be addressed in more depth.
53. Whilst Mr Mensah told the panel he had attended courses and undertaken learning to keep his knowledge and skills up to date, he produced no further, independent evidence of such courses or learning for this hearing. The panel noted that the links he provided were to two articles rather than information or evidence relating to courses he has attended. Whilst appreciating that Mr Mensah had not been able to practise in a social work role during his suspension, the panel considered that when asked by the panel, he was not able to give sufficient examples of how he used or applied such learning. The panel found the evidence and Mr Mensah's answers to be of a superficial nature.
54. The panel concluded it was not satisfied, despite his having now been given similar advice by panels at previous reviews, that Mr Mensah had discharged the persuasive burden upon him to satisfy this panel that he has sufficiently addressed all of the outstanding concerns. The panel considered that the risk to the public remained.
55. Further, considering the continuing insufficiency of the evidence of remediation, the panel concluded that a failure to find Mr Mensah impaired would undermine public confidence in the profession and the regulator.
56. The panel therefore concluded that Mr Mensah's fitness to practise remains impaired, having regard to both the personal and the public interest, for the same reasons as the previous panels.

Panel decision and reasons on sanction:

57. Having found Mr Mensah's fitness to practise is currently impaired, the panel next considered what, if any, sanction it should impose in this case. The panel had regard to the submissions of both parties, along with all the information and accepted the advice of the legal adviser. The panel referred to and applied Social Work England's 'Impairment and sanctions guidance'.
58. The panel was mindful that the purpose of any sanction is not to punish Mr Mensah, but to protect the public and the wider public interest. The public interest includes maintaining public confidence in the profession and Social Work England as its regulator and by upholding proper standards of conduct and behaviour.

59. The panel applied the principle of proportionality by weighing Mr Mensah's interests with the public interest.
60. The panel first considered taking no further action and allowing the current suspension order to lapse upon expiry, or to revoke it with immediate effect. The panel bore in mind that these steps would not restrict Mr Mensah's ability to practise as a social worker and would not address the residual risk of repetition which has been identified. The panel concluded that options that would not restrict practice would be inappropriate and insufficient to meet the public interest.
61. The panel concluded that an outcome of advice or warning would not be appropriate as they do not directly restrict practice.
62. The panel next considered whether a conditions of practice order would be appropriate and proportionate. The panel acknowledged that Mr Mensah had indicated that he would be willing to comply with any order the panel might impose if he were permitted to return to practice. However, the panel considered that the misconduct identified by the Case Examiners in Mr Mensah's case was behavioural in nature and occurred outside of the working environment. The panel concluded that this was not a case which was readily amenable to a conditions of practice order, nor would such an order sufficiently protect the public or maintain public confidence in the profession.
63. The panel next considered whether to extend the current suspension order for a further period. The panel bore in mind that a suspension order would prevent Mr Mensah from practising during the suspension period, which would therefore protect the public and the wider public interest.
64. The panel noted that the 'sanctions guidance' states that a suspension order 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)'*
65. The panel bore in mind that the Mr Mensah has now been suspended from practice for almost two years. The original period of suspension imposed by the Case Examiners was six months. Although this period has since been extended at four subsequent reviews, Mr Mensah has not provided evidence to satisfy the panel that he has sufficiently addressed the issues. This is despite very clear guidance from previous review panels as to the steps he needed to take.
66. This panel noted that when deciding to further extend the period of suspension, the previous review panel in September 2024 noted that it could have considered a removal order and stated that it had decided to extend the suspension order for a further six-month period *'because it would allow Mr Mensah a brief period of time to re-engage whilst also protecting the public. It would also avoid prolonging the suspension*

for such a length of time that Mr Mensah is at risk of becoming deskilled as a social worker.’ That panel also made clear to Mr Mensah that if he did not take the opportunity to re-engage with Social Work England and provide further evidence, there was a risk that he would be removed from the social work register. Whilst there has been some last-minute engagement from Mr Mensah for this review, he continued not to provide sufficient evidence to satisfy this panel that the concerns have been adequately addressed.

67. The panel was satisfied it could consider that a removal order was available to the panel as Mr Mensah’s fitness to practise was originally found impaired on the basis of one or more grounds as set out in regulation 25(2)(a), (c), (d), (f) or (g).
68. The panel noted that a removal order is a sanction of last resort where there is no other means of protecting the public or the wider public interest. The panel took the view that a removal order would be appropriate because, reluctantly, at this point, this panel has concluded that it has no confidence, were it to extend the suspension for a further brief period, that the position at the next review would be any different. The panel therefore concluded that a further period of suspension would serve no useful purpose.
69. The panel determined that the appropriate order in Mr Mensah’s case at this, fourth, review hearing is a removal order.

Right of appeal:

70. 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.
71. 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.
72. 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.

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

Review of final orders:

74. 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).

75. 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

76. 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>