

Social worker: Edward Burton

Registration number: SW22165

Fitness to Practise

Final Hearing

Dates of hearing: 24 March 2025 to 27 March 2025

Hearing venue: Remote hearing

Hearing outcome:

Facts found proved:

1, 2, 3.a.i, 3.a.ii, 3.a.iii, 3.b, 3.c, 3.d, 4.a, 4.b, 5.a, 5.b and 6

Facts found not proved: 7

Statutory Grounds: Misconduct

Impairment: Yes

Sanction: Removal order

Interim order: 18 months suspension order

Introduction and attendees:

1. This is a hearing held under Part 5 of The Social Workers Regulations 2018 (as amended) (“the regulations”).
2. Mr Burton did not attend and was not represented in his absence.
3. Social Work England was represented by Mr Kirke, case presenter instructed by Capsticks LLP.

Adjudicators	Role
Frank Appleyard	Chair
Christine Anne Rice	Social worker adjudicator
Angela Brown	Lay adjudicator

Hearings team/Legal adviser	Role
Nicole Dente	Hearings officer
Ruby Wade	Hearings support officer
Megan Ashworth	Legal adviser

Service of notice:

4. The panel of adjudicators (hereafter “the panel”) was informed by Mr Kirke that notice of this hearing was sent to Mr Burton by email to the email address previously provided by Mr Burton (namely his registered address as it appears on the Social Work England register). Mr Burton 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 17 February 2025 and addressed to Mr Burton at his email address which he had previously provided to Social Work England;
 - A copy of a signed statement of service, on behalf of Social Work England, confirming that on 17 February 2025, the writer sent by email to Mr Burton, at the address referred to above: the notice of hearing and related documents;
 - A copy of the Social Work England back-end register for 17 February 2025, confirming, as of that date, the email address recorded for Mr Burton.
6. The panel accepted the advice of the legal adviser in relation to service of notice.
7. Having had regard to Rules 14, 15, and 44 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 Burton in accordance with the Rules.

Proceeding in the absence of the social worker:

8. The panel heard the submissions of Mr Kirke on behalf of Social Work England. He submitted that notice of this hearing had been duly served, and there had been no response to it by Mr Burton. Mr Kirke submitted that no application for an adjournment had been received and as such there was no guarantee that adjourning today's proceedings would secure his attendance. Mr Kirke further informed the panel that Mr Burton had previously informed Social Work England that he no longer intended to practise as a social worker and submitted that for similar reasons Mr Burton was not expected to attend this hearing. Mr Kirke also informed the panel that Mr Burton had also not complied with case management directions. He submitted that these were serious matters, involving criminal behaviour and dishonesty. He 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'.
10. The panel considered all of the information before it, together with the submissions made by Mr Kirke on behalf of Social Work England. The panel noted that it had found good service and so was satisfied that Mr Burton was aware of or should be aware of today's hearing. Having found good service of the notice, the panel next considered whether it should proceed in Mr Burton's absence and was mindful that the discretion to do so should be exercised with great care and caution.
11. The panel concluded that Mr Burton's absence was voluntary. The panel had no reason to suppose that an adjournment would result in his attendance, given his previous indication that he no longer wishes to practise as a social worker and his subsequent non engagement with Social Work England. The panel noted that the notice itself had explained to Mr Burton the panel's power to proceed in a social worker's absence. The panel noted that Social Work England had scheduled three witnesses to be available for the hearing. The Panel acknowledged that Mr Burton would be disadvantaged by not being present to address the evidence or give his account, but it considered that his absence was voluntary, having disengaged from the process. Having weighed the interests of Mr Burton in regard to his right to attend the hearing with those of Social Work England and the public interest of public protection together with the expeditious disposal of this hearing, the panel determined that it was fair to proceed in Mr Burton's absence.

Preliminary matters:

Application for parts of the hearing to be in private

12. Mr Kirke applied for parts of the hearing to be heard in private when they related to Mr Burton's health.
13. Having heard and accepted the advice of the legal advisor, the panel decided to hear those parts of the case which related to Mr Burton's health, in private, in order to protect his private life.

Allegations:

Whilst registered as a social worker:

- 1. On 6 June 2021, whilst on the Isle of Man, you drove a motor vehicle on a road whilst over the prescribed limit of alcohol.***
- 2. On 28 October 2021, you failed to surrender to the Magistrates Court, at Douglas Courthouse, within the Isle of Man, for the criminal offence of driving whilst over the prescribed limit, with which you were charged on Monday 7 June 2021.***
- 3. You pursued a course of conduct against Person A, in that:***
 - a. Between 28 May 2021 and 23 June 2021, on one or more occasions, you:***
 - i. sent messages to Person A on one or more occasions;***
 - ii. followed Person A on one or more occasions;***
 - iii. visited Person A's home on one or more occasions;***
 - b. Between 6 October 2021 and 15 October 2021, on one or more occasions you contacted Person A;***
 - c. The contact set out at sub-paragraphs (a) and (b) above was unwanted;***
 - d. By your conduct at sub-paragraphs (a)-(c) above you caused Person A harassment and/or distress.***
- 4. You failed to declare the following to Social Work England, that:***
 - a. on Monday 7 June 2021, whilst on the Isle of Man, you were Charged with the criminal offence of driving whilst over the prescribed limit;***

- b. on Sunday 27 June 2021, whilst on the Isle of Man, you were investigated and/or cautioned for the criminal offence of Harassment, Contrary to Sections 1 and 2 of the Protection from Harassment Act 2000.*
- 5. On or around, Thursday 23 September 2021, when renewing your registration with Social Work England, you answered ‘no’ in response to:*
- a. Whether you have been convicted or cautioned for any criminal offence;*
- b. whether you have any health conditions.*
- 6. Your conduct at regulatory concern 5 was dishonest.*
- 7. You have one or more unmanaged health conditions as set out in Schedule 1, which have the potential to affect your fitness to practise.*

[PRIVATE]

The matters outlined in regulatory concerns (1), (2), (3), (4a), (4b) (5a), (5b) and (6) amount to the statutory ground of misconduct.

The matter outlined in regulatory concern (7) amounts to the statutory ground of adverse physical/ mental health.

Your fitness to practise is impaired by reason of misconduct and, or adverse physical/mental health.

Summary of evidence:

14. Mr Burton is a Social Worker registered with Social Work England.
15. On 8 March 2022, Social Work England received a referral from the Isle of Man Police regarding the Respondent social worker, Edward Burton. This followed an Isle of Man Police investigation into Mr Burton, in respect of harassment, for which he was cautioned as well as being charged with an offence of driving with excess alcohol.
16. Mr Burton had been working as a social worker at Manx Care on the Isle of Man since May 2020, initially as a safeguarding officer before working as an agency social worker. Person A was a colleague who also worked for Manx Care. She worked in the same building but not in the same team as Mr Burton. They began a personal relationship in around June or July 2020. In May 2021, Person A ended their relationship.

17. Between 28 May 2021 and 23 June 2021, after the personal relationship had ended, it is alleged that Mr Burton pursued a course of conduct against Person A that amounted to harassment. The alleged conduct included sending her messages, following her and visiting her home address.
18. On 6 June 2021, Person A contacted the police and made a complaint against Mr Burton. At around 17:45, a police officer, PC Parker, attended Person A to take information about the complaint. Later that same evening, PC Parker visited Mr Burton at his home and suspected that he was intoxicated. Person A was contacted and informed that police had visited Mr Burton. After this, at around 19:30 and 20:10, Person A allegedly saw Mr Burton drive twice past her house and so called the police again and told them what car he was driving.
19. PC Wells received information that Mr Burton may be intoxicated and went to the Port Erin area of the Isle of Man to search for him. At approximately 20:15 he saw Mr Burton driving his car down Erin Way. PC Wells caused the car to stop.
20. At 20:31, PC Wells requested Mr Burton to provide a sample of breath for the road side breathalyser. Mr Burton failed the breath test and at 20:32, he was arrested on suspicion of driving whilst over the prescribed limit and cautioned.
21. Mr Burton was taken to the police station where he was asked to provide a sample of breath on the evidential intoxyliser. At 21:53, the lower of the two readings was 84 microgrammes of alcohol in 100 millilitres of breath.
22. On 7 June 2021, Mr Burton was charged with the offence of driving with excess alcohol, released on bail and required to surrender to court on 10 June 2021.
23. On 11 June 2021, Mr Burton was issued with a Police Information Notice (PIN), confirming that the police had spoken to him about persistent, unwanted contact with Person A and informing him that any further conduct of a similar nature could amount to a criminal offence under the Protection from Harassment Act 2000.
24. It is alleged that further unwanted contact continued after the PIN was issued to Mr Burton. On 27 June 2021, Mr Burton accepted and was issued with a police caution for the offence of harassment of Person A.
25. In early October 2021, it is alleged that Mr Burton started to make further calls to Person A. On 12 and 15 October 2021, she made witness statements to the police regarding the alleged unwanted contact.
26. On 28 October 2021, Mr Burton was required to attend court in respect of the driving with excess alcohol matter, but he failed to do so. As a result, a warrant of arrest was issued for failing to surrender to court as required under his bail conditions.
27. It is alleged that Mr Burton failed to declare to Social Work England that he had been charged with the offence of driving with excess alcohol and had been investigated for and accepted a police caution for the criminal offence of harassment.

28. On 23 September 2021, Mr Burton renewed his registration with Social Work England. It is further alleged that he answered 'no' to the questions of whether he had been cautioned for any criminal offences and whether he had any health conditions and that he did so dishonestly.
29. On 8 March 2022, police referred Mr Burton to Social Work England in respect of the alleged criminal offences of driving with excess alcohol and harassment.
30. As part of Social Work England's investigation, Mr Burton provided information about his health [PRIVATE]. As a result, it is alleged that Mr Burton has health conditions which may impair his fitness to practise and which ought to have been disclosed to Social Work England in the annual renewal process for registration.

Summary of evidence:

31. Social Work England called the following witnesses:
 - PC Wells, the arresting officer for the suspected offence of driving with excess alcohol;
 - Ms Comiskey, an Investigator with Social Work England, who was responsible for investigating the concerns raised about Mr Burton's fitness to practise;
 - Mr Stockwell, who, at the time, was the Head of Registration and Advice at Social Work England and was responsible for the team which assesses applications to join the register and for overseeing the annual renewal process for social workers wishing to continue their registration;
32. Social Work England also relied on the hearsay evidence of Person A, the complainant in respect of the alleged offence of harassment. Her witness statement and accompanying exhibits had previously been ruled admissible at a preliminary meeting.
33. Social Work England also provided a bundle of exhibits, including:
 - The original police statement of PC Wells, dated 6 June 2021, relating to the arrest of Mr Burton for driving with excess alcohol;
 - A printout of the intoxyliser reading, dated 6 June 2021;
 - A copy of Mr Burton's charge sheet in respect of the offence of driving with excess alcohol, dated 10 June 2021;
 - A copy of the PIN issued to Mr Burton, dated 11 June 2021;
 - A copy of the police caution, dated 27 June 2021, accepted by Mr Burton in respect of the offence of harassment;
 - A copy of the warrant issued for Mr Burton, dated 28 October 2021, in respect of failing to surrender to court;

- Person A's log of contact by Mr Burton between 28 May 2021 and 6 June 2021;
 - Person A's police witness statements, dated 12 and 15 October 2021, in respect of alleged unwanted contact by Mr Burton;
 - Health information and consents provided by Mr Burton;
 - A copy of Mr Burton's Social Work England annual renewal form for continued registration, dated 23 September 2021;
 - Social Work England guidance on renewal forms;
 - Social Work England's guidance on safe and effective practice declarations.
34. Mr Burton had previously engaged with Social Work England, and the panel received a social worker response bundle which included:
- Mr Burton's email correspondence with Social Work England, including initial comments, between 29 April 2022 and 3 May 2022;
 - [PRIVATE]
 - [PRIVATE]
 - [PRIVATE]
 - An email from Mr Burton, dated 18 July 2023, regarding his health.

Finding and reasons on facts:

35. The panel heard and accepted the advice of the legal adviser. She advised that the burden of proof was on Social Work England and the standard of proof required was the civil standard, namely whether it was more likely than not that the alleged facts occurred. In relation to dishonesty, the legal adviser advised in accordance with the case of *Ivey v Genting Casinos (UK) t/a Crockfords [2017] UKSC 67* and *Barton and Booth v R [2020] EWCA Criminal 575*.
36. The panel considered all the evidence provided to it and the submissions of Mr Kirke on behalf of Social Work England. Whilst Mr Burton had not attended and given evidence to the panel, the panel did not hold the fact of his non-attendance against him.

Particular 1

On 6 June 2021, whilst on the Isle of Man, you drove a motor vehicle on a road whilst over the prescribed limit of alcohol.

37. The panel finds particular 1 proved.

38. The panel had regard to the witness statement of PC Wells. He stated that having received information that Mr Burton may be driving whilst intoxicated, he searched for him in the Port Erin area of the Isle of Man. PC Wells located Mr Burton driving a Golf vehicle along Erin Way and caused him to stop. PC Wells administered a road side breath test which Mr Burton failed and so was arrested on suspicion of driving with excess alcohol.
39. PC Wells transported Mr Burton to the police station, where he was required to provide a sample of breath for the evidential intoxyliser. At 21:53, the lower of the two readings was 84 microgrammes of alcohol in 100 ml of breath. The panel had regard to the copy of the print out of the intoxyliser reading, which recorded the reading of 84 microgrammes. PC Wells, in his statement, confirmed that the legal limit is 35 microgrammes of alcohol per 100 ml of breath.
40. The panel considered that there was nothing to undermine the evidence of PC Wells or to call into question the accuracy of the intoxyliser reading print out. It was, therefore, satisfied that Mr Burton had driven a motor vehicle whilst over the prescribed limit of alcohol.

Particular 2

On 28 October 2021, you failed to surrender to the Magistrates Court, at Douglas Courthouse, within the Isle of Man, for the criminal offence of driving whilst over the prescribed limit, with which you were charged on Monday 7 June 2021.

41. The panel finds particular 2 proved.
42. The panel had regard to the evidence of PC Wells. He stated that Mr Burton was charged with the offence of driving with excess alcohol on 7 June 2021, and granted bail, on condition that he attend court at a later date. He stated that Mr Burton had been required to attend court on 28 October 2021 in respect of the offence of driving with excess alcohol, but did not attend and so a warrant was issued for his arrest. The panel had regard to the copy of the warrant of arrest. It recorded that Mr Burton had been bailed to attend the Douglas Magistrates' Court on 28 October 2021, but had failed to answer his bail and so the arrest warrant had been issued. PC Wells confirmed in his oral evidence that as far as he was aware, the warrant was extant.

Particular 3a

You pursued a course of conduct against Person A, in that:

Between 28 May 2021 and 23 June 2021, on one or more occasions, you:

- i. sent messages to Person A on one or more occasions;***
- ii. followed Person A on one or more occasions;***
- iii. visited Person A's home on one or more occasions;***

43. The panel finds particular 3.a proved.
44. The panel noted that on 27 June 2021, Mr Burton had accepted a caution admitting that he had committed the offence of harassment of Person A. PC Wells confirmed in his evidence that a Defendant would only be eligible for a caution if they admitted the offence. The panel had a copy of the caution, which confirmed that the offence for which Mr Burton was accepting the caution was:

“Between 28/5/21 and 23/6/21 at Port Erin, in the Isle of Man, did pursue a course of conduct towards another, namely [Person A] which amounted to harassment of that person, which he knew all should have known, would amount to harassment of that person; contrary to Sections 1 and 2 of the Protection from Harassment Act 2000.”

45. The panel also had regard to the hearsay evidence of Person A. It was satisfied that it could give significant weight to her evidence as:
- Person A had kept a detailed and contemporaneous log up to 6 June 2021, of the contact by Mr Burton, which recorded multiple incidents of him sending her messages and following her in his car, as well as on one occasion of visiting her home, by leaving a bag of possessions on her driveway;
 - On 27 June 2021, Mr Burton had admitted the offence of harassment in a police interview under caution, as a result of which he had been eligible for a police caution by way of disposal, and he had accepted the caution on 27 June 2023;
 - Mr Burton had not challenged the accuracy or reliability of Person A’s evidence either in the police interview or during Social Work England’s proceedings.
46. The Panel was satisfied that Mr Burton had sent multiple messages to Person A and had followed her in his car or driven past her home address on multiple occasions, and on one occasion had visited her home by leaving a bag of possessions on her driveway. The panel was satisfied that these incidents were so connected in type and context that they constituted a course of conduct against Person A.

Particular 3b:

You pursued a course of conduct against Person A, in that:

Between 6 October 2021 and 15 October 2021, on one or more occasions you contacted Person A;

47. The panel finds particular 3b proved.
48. The panel noted that on 11 June 2021, Mr Burton was issued with a PIN informing him that any continuation of his contact with Person A may constitute the offence of harassment. On 27 June 2021, he was cautioned for the offence of harassment. On 12 October 2021, Person A contacted the police to say that Mr Burton was contacting her again and she made a police witness statement on that day. She stated that in early

October 2021 she received various calls from Mr Burton. On 15 October 2021, Person A stated that she received 15 missed calls from Mr Burton on his phone number. She said that he was able to call her as although she had blocked him on WhatsApp, she had not realised she needed to block him on every individual platform. On 15 October 2021, Person A made a further police witness statement. The panel was satisfied that, between 6 October 2021 and 15 October 2021, Mr Burton had pursued a course of conduct against Person A, by contacting her on multiple occasions.

Particular 3c:

You pursued a course of conduct against Person A, in that:

The contact set out at sub-paragraphs (a) and (b) above was unwanted;

49. The panel finds particular 3c proved.
50. The panel was satisfied that both episodes of contact at sub-particulars (a) and (b) were unwanted. It had regard to the witness statement of Person A. She described that she had contacted the police as she had been ‘fearful’ that Mr Burton would return to her house and continue to contact her, being aware that he was attempting to follow her in his car and that she was increasingly concerned with his behaviour. The panel bore in mind that Person A had ended the personal relationship with Mr Burton. She had informed the police several times about Mr Burton’s ongoing contact in an effort to prevent further contact and she had attempted to block his number so as not to receive further calls from him.
51. Person A also stated in her police witness statement of 15 October 2021, that:

“I wish to still confirm [Mr Burton] should not be trying to contact me. He is not welcome to try [sic] contact me and I find his continued conduct harassing and distressing and I want to make a formal complaint. I will assist the police in their further enquiries and will attend court if required.”
52. The panel was satisfied that all these actions of Person A demonstrated that the ongoing contact from Mr Burton was unwanted by her, as was confirmed in her police witness statement of 15 October 2021.

Particular 3d:

You pursued a course of conduct against Person A, in that:

By your conduct at sub-paragraphs (a)-(c) above you caused Person A harassment and/or distress.

53. The panel finds particular 3d proved.
54. The panel was satisfied that Mr Burton’s conduct at sub-paragraphs (a) to (c) had caused Person A both harassment and distress. The panel had regard to the impact of Mr Burton’s conduct on Person A. In her witness statement, Person A described that during the course of contact:

“...I felt very uncomfortable, and when I knew he was in the area I did not know what he was going to do. I was fearful that he would continue to drive past my house, follow me without my knowledge, that he would approach me or that he would attempt to discredit me. I didn’t know if it was going to stop or even get worse...[he] made me feel uncomfortable in places where I should feel safe – my Home and work place...”

55. The panel also had regard to Person A’s police witness statement of 15 October 2021, in which she confirmed that she found Mr Burton’s ongoing contact ‘harassing and distressing’.

Particular 4a:

You failed to declare the following to Social Work England, that:

on Monday 7 June 2021, whilst on the Isle of Man, you were Charged with the criminal offence of driving whilst over the prescribed limit;

56. The panel finds particular 4a proved.
57. The panel had regard to Social Work England’s professional standards which set out the disclosure obligations of a social worker to their regulator, including standard 6.6 which states: ‘As a social worker I will declare to the appropriate authority and Social Work England anything that might affect my ability to do my job competently or may affect my fitness to practise, or if I am subject to criminal proceedings or a regulatory finding is made against me, anywhere in the world’.
58. The panel was satisfied that Mr Burton was aware he had been charged with the offence of driving with excess alcohol, as he had been arrested for it, required to provide a specimen of breath for analysis which gave a reading above the legal limit, and so he was consequently charged with the offence and bailed to attend court to answer the charge. The panel was satisfied that Mr Burton was under a duty to disclose that he had been charged with the criminal offence of driving whilst over the prescribed limit and that he was aware that he had been charged. Accordingly, the panel was satisfied that he had failed to disclose that he had been charged with the offence.

Particular 4b:

You failed to declare the following to Social Work England, that:

on Sunday 27 June 2021, whilst on the Isle of Man, you were investigated and/or cautioned for the criminal offence of Harassment, Contrary to Sections 1 and 2 of the Protection from Harassment Act 2000.

59. The panel finds particular 4b proved.
60. The panel again had regard to standard 6.6. It was satisfied that a criminal investigation into the offence of harassment had been conducted and Mr Burton had consequently

accepted a caution in respect of it, which were matters that Mr Burton had a duty to disclose to his regulator. It was also satisfied that Mr Burton was aware of the criminal investigation and caution. He had been arrested and interviewed under caution for the offence of harassment; made admissions to the offence and had accepted a police caution. Accordingly, the panel was satisfied that he had failed to disclose the investigation into and caution for the offence of harassment.

Particular 5a:

On or around, Thursday 23 September 2021, when renewing your registration with Social Work England, you answered ‘no’ in response to:

Whether you have been convicted or cautioned for any criminal offence;

61. The panel finds particular 5a proved.
62. The panel had regard to the evidence of Mr Stockwell in respect of the process for annual renewal of registration and the declarations required of a social worker. It also had regard to the renewal form completed by Mr Burton, dated 23 September 2021. It noted that the form informs the social worker:

“You must tell us about any convictions, penalty notices or cautions you have not already declared to the regulator. You should include convictions received outside England and Wales, which, if committed in England and Wales, would constitute an offence.”

63. The form then asks the social worker the following:

‘Have you been convicted or cautioned, or received a penalty notice, for any criminal offences as above that you have not already declared to the regulator?’

64. The panel noted that Mr Burton had responded ‘no’ to this question. It was satisfied that the wording of the question required ‘any’ caution to be declared.
65. The panel was satisfied that the question posed was clear, and that Mr Burton ought to have answered the question ‘yes’.

Particular 5b:

On or around, Thursday 23 September 2021, when renewing your registration with Social Work England, you answered ‘no’ in response to:

whether you have any health conditions.

66. The panel finds particular 5b proved.
67. The panel had regard to the medical evidence which had been provided [PRIVATE].

68. The panel identified that Mr Burton had answered ‘no’ to the question regarding whether he had any health conditions. It was satisfied that, [PRIVATE], Mr Burton ought to have answered the question ‘yes’.

Particular 6

Your conduct at regulatory concern 5 was dishonest.

69. The panel finds particular 6 proved.
70. The panel noted that Mr Burton, in his initial comments to Social Work England, stated that he was unaware that he had to disclose the caution and that it was an oversight on his part for which he apologised sincerely. [PRIVATE].
71. However, the panel considered that Mr Burton was a professional, who was filling in a renewal for registration form, declaring that he still met the standards required to practise as a social worker. The panel bore in mind that there was extensive guidance on Social Work England’s website as to what needed to be declared, as well as a ‘walk-through video’ on how to complete the renewal form and respond accurately and appropriately to the declarations. The panel also noted that the declarations were in the form of questions which the social worker was required to positively reply to, one way or the other. In such circumstances, the panel did not accept that responding ‘no’ to either question would have been an oversight on Mr Burton’s part.
72. The panel considered that it was more likely than not that Mr Burton was aware that his involvement with the police on the Isle of Man may impact his fitness to practise; that his medical conditions at that time may impact his fitness to practise; and that by failing to declare them by answering ‘yes’ to the specific questions, the Social Worker was seeking to avoid any potential Social Work England investigation and possible restriction upon his social work practice.
73. In all the circumstances, the panel considered that Mr Burton had decided to answer the questions as ‘no’, when he knew that he should be answering them as ‘yes’. The panel considered that ordinary and decent people would consider such conduct as dishonest.

Particular 7:

You have one or more unmanaged health conditions as set out in Schedule 1, which have the potential to affect your fitness to practise.

[PRIVATE]

74. The panel finds particular 7 not proved.
75. The panel had regard to the evidence in respect of Mr Burton’s health. [PRIVATE].

76. [PRIVATE]. The panel was not satisfied that Social Work England had discharged the burden of proving that Mr Burton currently has one or more unmanaged health conditions (as set out in Schedule 1) which have the potential to affect his fitness to practise.

Finding and reasons on grounds:

77. Mr Kirke drew the panel's attention to Social Work England's statement of case and the submissions that the facts found proved amounted to misconduct.
78. The panel heard and accepted the advice of the legal adviser. She advised that the case law made clear that the conduct in question must be serious before a panel could properly find a professional person to be guilty of misconduct, and that the question of misconduct was a matter for the panel's judgement. The panel had regard to Social Work England's Standards and understood that not every breach of the Standards would necessarily be sufficiently serious as to amount to misconduct.
79. In relation to particular 1, the panel considered that this was a serious matter of driving with excess alcohol. Whilst there was no conviction, the panel was satisfied that the facts found proved constituted the criminal offence of driving with excess alcohol and at a level which was over twice the legal limit. In the panel's judgement, this offence had the potential to place members of the public at risk of harm and fell far below the standards expected of a social worker, such that it amounted to misconduct.
80. In respect of particular 2, the panel considered that this was a serious matter of disregarding bail conditions to attend court as required to answer the criminal offence of driving with excess alcohol which Mr Burton had been charged with. The failure to surrender to court had resulted in a warrant for Mr Burton's arrest being issued. The panel noted that this warrant was still extant, meaning that Mr Burton would be liable to be arrested if he were to return to the Isle of Man. The panel considered that this failure to adhere to police or court ordered bail conditions fell far below the standards expected of a social worker, such that it amounted to misconduct.
81. In relation to the harassment matters at particular 3, Mr Kirke explained that as the Isle of Man is not part of the United Kingdom, the statutory ground of caution had not been able to be relied upon. The panel understood that this was the reason for the specific components of harassment being pleaded in particular 3, and that those facts that it had found proved, constituted the criminal offence of harassment. The panel considered that whilst the harassment had occurred following a relationship breakdown, it was, nevertheless, persistent and deliberate. The panel noted that Mr Burton had been warned that his conduct may constitute harassment by way of the PIN that had been issued to him on 11 June 2021, but he had disregarded that police warning and continued his unwanted contact of Person A. The panel further noted that Mr Burton had subsequently accepted and been issued with a police caution on 27 June 2021 for the criminal offence of harassment, but that he had re-started his unwanted

contact of Person A in October 2021. The panel considered that Mr Burton's course of conduct caused actual harm to Person A, by making her fearful and causing her harassment and distress. In the panel's judgement, this conduct fell far below the standards expected of a social worker, such that it amounted to misconduct.

82. In relation to particular 4, the panel considered that not declaring either the police investigation and caution for harassment or the charge for driving with excess alcohol, was serious and persisted over a number of months. By the time the Isle of Man police made the referral to Social Work England on 8 March 2022, Mr Burton had failed to surrender to court resulting in a warrant for his arrest being issued, and had submitted his application (dated 23 September 2021) for renewal of registration as a social worker without declaring them. The panel considered that it was a serious omission to fail to disclose matters which, in the panel's judgement, would be obvious to Mr Burton that they were relevant to his fitness to practise. In all the circumstances, the panel concluded that the conduct fell far below the standards expected of a social worker, such that it amounted to misconduct.
83. In relation to particulars 5 and 6, the panel considered that dishonestly answering declarations in respect of being cautioned or having health conditions which may affect fitness to practise, was serious. In the panel's judgement, Mr Burton had intended to conceal these matters from his regulator, so as to avoid the risk of an investigation into his fitness to practise. In all the circumstances, the panel concluded that the conduct fell far below the standards expected of a social worker, such that it amounted to misconduct.
84. The panel also considered that Mr Burton's conduct breached the following Standards:
- 2.1 Be open, honest, reliable and fair.*
 - 5.1 [I will not] Abuse, neglect, discriminate, exploit or harm anyone, or condone this by others.*
 - 5.2 [I will not] Behave in a way that would bring into question my suitability to work as a social worker whilst at work, or outside of work*
 - 6.6 Declare to the appropriate authority and Social Work England anything that might affect my ability to do my job competently or may affect my fitness to practise, or if I am subject to criminal proceedings or a regulatory finding is made against me, anywhere in the world.*
85. In the panel's judgement, Mr Burton's conduct, both individually and collectively was so serious that it amounts to misconduct.

Finding and reasons on current impairment:

86. Mr Kirke submitted that Mr Burton's fitness to practise is currently impaired by reason of his misconduct,
87. The panel heard and accepted the advice of the legal adviser. She advised the panel to keep in mind the critically important public policy issues of public protection, maintaining public confidence in the profession and upholding professional standards of conduct and behaviour. The panel understood that in relation to impairment, what has to be determined is whether there is current impaired fitness to practice today and looking forward from today. When considering the question of impairment, the panel took into account Social Work England's 'Impairment and sanctions guidance' (the Guidance), which identifies that the panel should consider impairment by reference to the personal element and the public element.
88. The panel had regard to the Guidance. It considered the personal element, and the relevant factors set out in the Guidance that decision makers should consider when making a decision, namely in this case: harm caused (or risk of harm), repetition (or risk of repetition), insight, remediation and admissions. The panel considered that actual harm had been caused to a former partner as a result of Mr Burton's persistent and unwanted contact of her. Person A described how the contact had made her feel fearful and uncomfortable in places where she should feel safe, such as her home and her workplace. The unwanted contact had persisted, notwithstanding police intervention by way of the PIN and then being issued with a police caution for the offence of harassment. The panel also considered that potential harm would have been caused to road users and other members of the public by Mr Burton driving a vehicle with excess alcohol.
89. In terms of insight, the panel considered that it had no information to demonstrate that Mr Burton had developed insight into any of the areas of his misconduct, as he had not engaged in these proceedings. The panel noted that Social Work England's last contact from Mr Burton was an email from him, dated 18 July 2023, in which he appeared to minimise his conduct, stating: *"I have made some stupid mistakes in retrospect, and I can only apologise and take appropriate action to rectify them."*
90. In terms of remediation, the panel was of the view that the misconduct would be difficult to remediate, as much of it was attitudinal in nature. The panel considered that the attitudinal nature of the misconduct includes persisting in criminal conduct, disregarding the police, failing to be transparent with the regulator and acting dishonestly. Nevertheless, the panel considered that in any event it had no evidence to indicate that Mr Burton had taken any steps towards remediation or had taken any *"appropriate action to rectify"* the misconduct.
91. Given the persistent nature of the misconduct and the absence of any insight or remediation, the panel concluded that there was a risk of repetition, thereby placing members of the public at future risk of harm. In all the circumstances, the panel

concluded that Mr Burton's fitness to practise is currently impaired on the personal element.

92. The panel considered the public element. The panel concluded that Mr Burton's misconduct involved criminal conduct which caused actual harm to a former partner and potential harm to road users and other members of the public. It included disregarding the police and bail conditions requiring his attendance at court. Furthermore, in the panel's judgement, Mr Burton had failed in his obligations to declare the criminal matters to his regulator and had compounded this by dishonestly concealing them, as well as health matters, in his renewal for registration as a social worker. In the panel's judgement, such conduct breached the fundamental tenets of the profession of acting lawfully and with honesty and integrity, which brought the profession into disrepute. The panel considered that such conduct would significantly undermine the public's trust and confidence in social workers. In all the circumstances, the panel concluded that Mr Burton's fitness to practise is currently impaired on the public element.
93. Accordingly, in the panel's judgement, Mr Burton's fitness to practise is currently impaired on both the personal and public elements.

Decision and reasons on sanction:

94. Having determined that Mr Burton's fitness to practise is currently impaired by reason of his misconduct, the panel went on to consider whether it was impaired to a degree that required action to be taken on his registration.
95. Mr Kirke, on behalf of Social Work England, submitted that a removal order was the only appropriate and proportionate order in this case, drawing the panel's attention to the relevant paragraphs of the Guidance to support his submissions.
96. The panel accepted the advice of the legal adviser and exercised its independent judgement. She advised that the purpose of sanction is not to be punitive but to protect members of the public and to safeguard public interest which includes upholding standards of the profession together with maintaining public confidence in the profession. In respect of the public interest elements, she advised in accordance with the case of *Bolton v The Law Society [1994] 1 WLR 512*. The legal adviser invited the panel to have regard to the Guidance in respect of sanction and to consider the sanctions in ascending order of severity.
97. Before considering the individual options open to it in respect of sanction, the panel considered the relevant mitigating and aggravating factors in this case.
98. The panel considered that there was little by way of mitigation in this case. It acknowledged that Mr Burton had been a registered social worker for 10 years, before these events. [PRIVATE]. However, the panel did not consider that this absolved him from his responsibility to act in accordance with the law, or to act with both honesty

and integrity with his regulator. The panel considered that the apology from Mr Burton in his email of 18 July 2023, was limited, and sought to minimise his conduct. The panel considered that Mr Burton's admission to harassment in the criminal jurisdiction, so as to be eligible for a caution, was of limited relevance in these regulatory proceedings, given that the unwanted contact had re-started a few months later.

99. The panel had regard to the Guidance and the non-exhaustive list of potential aggravating factors and considered the following to be relevant and present in Mr Burton's case:
- *A repetition of concerns or a pattern of behaviour (in respect of the harassment matters);*
 - *A lack of insight or remorse*
 - *A lack of remediation;*
 - *And harm or risk of harm*
100. In addition to the non-exhaustive list of aggravating factors set out in the Guidance, the panel considered the fact that Mr Burton was still, apparently, wanted on an arrest warrant in the Isle of Man, to be an aggravating factor. Furthermore, the panel considered the fact that the unwanted contact of Person A had persisted after the PIN had been issued, and also after the criminal caution had been accepted, were also aggravating factors.
101. The panel first considered whether a sanction was necessary. In light of its findings on impairment, the panel was of the view that a sanction was required, given the criminal conduct, the dishonesty directed toward the regulator, and the ongoing risk of repetition the panel had identified. The panel concluded that taking no action would not protect the public and would send the wrong message to the public and significantly undermine public confidence in the profession and the regulator's response to such conduct.
102. The panel next considered whether to issue advice or to impose a warning. The panel bore in mind its findings at the impairment stage where it considered that there was a risk of repetition, as it had no evidence of any insight or remediation from Mr Burton. The panel bore in mind that neither option would restrict his practice and so would not protect the public. The panel was also mindful that Mr Burton's misconduct had breached fundamental tenets of the profession, including adhering to the law and honesty. Having regard to the case of *Bolton v The Law Society*, as referenced in the Guidance, the panel was of the view that neither advice nor a warning would be sufficient to protect and promote public confidence in the profession or to affirm the importance of upholding professional standards.
103. The panel next considered whether a conditions of practice order may be the appropriate and proportionate response. The panel had regard to paragraph 114 of the Guidance which sets out the circumstances in which conditions may be appropriate as follows:

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

104. Given its earlier findings at the impairment stage, the panel did not consider that any of the factors which may suggest conditions as being appropriate were evident in this case. The panel considered that Mr Burton's misconduct was attitudinal in nature, so was not easily susceptible to being managed by way of conditions. In reaching this view, the panel bore in mind that Mr Burton had persisted in his unwanted contact of Person A, notwithstanding the warning issued by police in the PIN, or the criminal caution that he had accepted. Given the attitudinal nature of the misconduct together with Mr Burton's non-engagement in these proceedings, the panel was also not confident that he would comply with conditions. Furthermore, the panel acknowledged that dishonesty was identified in the Guidance as a specific example of when conditions would be unlikely to be appropriate. In all the circumstances, the panel did not consider that conditions would be sufficient to protect the public or satisfy the significant public interest considerations in this case.
105. The panel next considered whether a suspension order may be the appropriate and proportionate response. The panel acknowledged that such an order would protect the public for the period for which it was in place. However, the panel noted that the Guidance indicated that suspension was unlikely to be suitable in circumstances where the social worker had not demonstrated any insight or remediation and there was limited evidence to suggest they were willing or able to resolve or remediate the failings. The panel considered that this was a case in which there had been serious breaches of the professional standards, and no insight or remediation demonstrated. The panel was also of the view that there was no evidence to suggest that Mr Burton would be willing to resolve or remediate his misconduct, having previously informed Social Work England that he did not intend to return to social work practice.
106. In relation to the dishonesty in respect of attempting to conceal matters relevant to fitness to practise from Social Work England, the panel had regard to the Guidance, and noted that it identified instances of dishonesty in professional practice as being particularly serious.
107. Given the wide-ranging nature and seriousness of the misconduct, the panel did not consider that this was a case of "*falling short of requiring removal from the register*" as identified in paragraph 136 of the Guidance as a factor indicating when suspension may be appropriate. The panel did not consider that this was a case where a temporary

period of suspension may afford a social worker time to develop his insight or to resolve and remediate matters. He did not appear to have reflected at all on his misconduct and its impact on Person A or the public's trust and confidence in social workers. The panel also noted that he appeared not to have resolved the outstanding warrant of arrest in respect of a serious criminal matter, issued over three years earlier.

108. The panel went on to consider a removal order. It had regard to paragraph 149 which sets out examples of when a removal order may be appropriate. The panel considered that the following examples were present in Mr Burton's case:
- *Dishonesty, especially where persistent and/or concealed*
 - *Persistent lack of insight into the seriousness of their actions or consequences*
 - *Social workers, who are unwilling and/or unable to remediate (for example, where there is clear evidence that they do not wish to practise as a social worker in the future).*
109. In all the circumstances, the panel concluded that no other outcome than a removal order would be enough to protect the public, maintain public confidence in the profession and uphold proper professional standards for social workers. Accordingly, the panel determined to impose a removal order.

Interim order:

110. In light of its findings on sanction, the panel next considered an application by Mr Kirke for an interim suspension order to cover the appeal period before the substantive sanction of removal becomes effective.
111. The panel heard and accepted the advice of the legal adviser who advised the panel that an interim order may only be imposed where it is necessary to protect the public or is in the best interests of the social worker.
112. The panel considered whether to impose an interim order to cover the appeal period. It was mindful of its earlier findings and consequent removal order imposed and decided that it would be wholly incompatible with those earlier findings and sanction if it did not impose an interim order. In reaching this decision, the panel bore in mind the ongoing risk of repetition and damage to public confidence it had identified in its substantive decision. It was satisfied that an interim order was necessary to protect the public in terms of each of protecting the safety and well-being of members of the public, maintaining public confidence in the profession and upholding professional standards.
113. The panel concluded that an interim conditions of practice order was not sufficient to protect against the concerns identified in this case, for the same reasons given when considering the substantive sanction. Accordingly, the panel concluded that an interim suspension order of 18 months is necessary for the protection of the public. 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 removal shall take effect when the appeal period expires.

Right of appeal:

114. 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.
115. 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.
116. 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.
117. 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:

118. 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

119. 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:

120. 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>.