

Social worker: Jane Elizabeth
Mary Smith
Registration number: SW21062
Fitness to Practise
Final Order Review meeting

Date of meeting: 14 April 2025

meeting venue: Remote meeting

Final order being reviewed: Suspension order (expiring 02 June 2025)

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

Introduction and attendees:

1. This is the first review of an Accepted Disposal – suspension order originally imposed for a period of 12 months by Case Examiners for Social Work England on 29 May 2024.
2. Ms Smith did not attend and was not represented.

Adjudicators	Role
Eileen Carr	Chair
Linda (Helen) Norris	Social worker adjudicator

Hearings team/Legal adviser	Role
Jo Cooper	Hearings officer
Heather Hibbins	Hearings support officer
Candice Manifold	Legal adviser

Service of notice:

3. The panel of adjudicators (hereafter “the panel”) was informed by the legal adviser that notice of this hearing was sent to Ms Smith by email on 11 March 2025. Following the receipt of an email from Ms Smith on 18 March 2025 stating that “*I cannot open this, so have no idea what this is about?*”, a further copy of the notice of this hearing was sent to Ms Smith by way of Royal Mail special delivery on 24 March 2025, along with a second email sent to Ms Smith of the same date (24 March 2025) with further copies of the notice but in an unencrypted format.
4. The panel had careful regard to the documents contained in the final order review service bundle as follows:
 - Notice of hearing and related documents;
 - A copy of the notice of the final order review hearing dated 11 March 2025 and addressed to Ms Smith at their email address provided to Social Work England;
 - A copy of a signed statement of service, on behalf of Social Work England, confirming that on 11 March 2025 the writer sent by email to Ms Smith at the email address provided by Ms Smith;
 - A copy of the notice of the final order review hearing dated 11 March 2025 and addressed to Ms Smith at the email address provided to Social Work England;
 - Email correspondence between Capsticks (on behalf of Social Work England) and Ms Smith on 18 March 2025 regarding the final order review hearing, within which Ms Smith confirmed that she was unable to open the documents that had

been sent to her in a secure encrypted format and so had no idea what the correspondence was about.

- A copy of the further notice of the final order review hearing dated 24 March 2025 by way of Royal Mail Special Delivery, and addressed to Ms Smith at the postal address provided to Social Work England;
- A copy of the further notice of the final order review hearing sent to Ms Smith on 24 March 2025 and addressed to Ms Smith at the email address provided to Social Work England;
- An extract from the Social Work England Register as of 24 March 2025 detailing Ms Smith's registered address;
- An email from Ms Smith to Capsticks dated 2 April 2025 confirming that she will not be attending the electronic hearing and that she has not prepared written submissions to be considered in advance of the review.

The panel accepted the advice of the legal adviser in relation to service of notice. Namely, that there had been effective service on Ms Smith in accordance with the Rules. The relevant Rules – 15(1), 16(a)(i) and 16(c) inclusive, require that Social Work England must review a final order of suspension or conditions of practice before its expiry date, with the aim being that the review takes place at least 28 days before the date the final order is due to expire. Further, the Rules require Social Work England to inform the social worker of the date (both of the following) i) on which it intends to review the order (not less than 28 calendar days before the date of the hearing or meeting); and ii) the date by which the social worker must make any written submissions or state whether they wish to attend or be represented to make oral submissions.

5. Having had regard to Rules 15(1), Rule 16(a)(i) and 16(c) inclusive and all of the information before it in relation to the service of notice, the panel was satisfied that notice of this hearing had been served on Ms Smith in accordance with Rules.

Proceeding in the absence of the social worker:

6. 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'.
7. The panel considered all of the information before it, including the email from Ms Smith to Capsticks (on behalf of Social Work England) dated 02 April 2025 advising that she would not be in attendance at the review and had not prepared any written representations to be considered in advance. The panel noted that Ms Smith had been

sent notice of today's hearing, that service had been effective in accordance with the Rules and the panel was satisfied that Ms Smith was aware of today's hearing.

8. The panel, therefore, concluded that Ms Smith had chosen voluntarily to absent herself from the final order review hearing. The panel recognised that whilst Ms Smith had engaged with the regulator to confirm that she would not be in attendance, it had no reason to believe that an adjournment would result in Ms Smith's attendance. Therefore, the panel did not consider that it would be in the public interest to delay the final order review in an effort to secure Ms Smith's attendance. Having weighed the interests of Ms Smith in regard to their attendance at the hearing with those of Social Work England and the public interest in an expeditious disposal of this hearing, the panel determined to proceed in Ms Smith's absence.

Proceeding with the final order review as a meeting:

9. The notice of final order review informed Ms Smith that the review would take place as a meeting. The notice stated:

"If you would like to attend before the adjudicators in order to make oral submissions, please confirm your intention by no later than 4pm on 25 March 2025. Unless we hear from you to the contrary, we shall assume that you do not want to attend a hearing and Social Work England may decide to deal with the review as a meeting. If Social Work England do hold a meeting, the adjudicators will be provided with a copy of this letter setting out Social Work England's submissions and a copy of any written submissions you provide."

10. The panel received no information to suggest that Ms Smith had, other than the email dated 02 April 2025 (confirming that she would not be in attendance and had not prepared written submissions) responded to the notice of final order review. The panel was satisfied that the letter explained that if the social worker chose not to attend, that the review could proceed as a meeting.

11. The panel had regard to Rule 16(c) of the Fitness to Practise Rules 2019 (as amended) which provides:

"Where the registered social worker does not state within the period specified by the regulator whether they intend to attend before the regulator, the regulator may determine whether to make an order by means of a meeting."

12. The panel heard and accepted the advice of the legal adviser in relation to Rule 32 of the Fitness to Practise Rules 2019 (as amended), which provides:

"Subject to Rule 32(c), the adjudicators or the regulator may regulate their own procedures and must conduct the hearing or meeting in the manner they consider or it considers fair."

13. The panel noted that there had been effective service in accordance with the Rules, Ms Smith had voluntarily absented herself, and had not sought an adjournment. The panel

further noted that page 4 of the notice of hearing explained the possibility of the hearing proceeding as a meeting, and requires proactiveness. Therefore, the panel was satisfied that it would be fair and appropriate to conduct the review in the form of a meeting in accordance with Rule 16(c).

Preliminary matters:

14. The panel accepted the advice of the legal adviser that, Rule 37 of the Fitness to Practise Rules 2019 (as amended) (“FTP Rules”) provides that subject to Rule 38, Fitness to Practise Hearings are to be conducted in public, and as a general rule the English legal system and the administration of justice, requires hearings to be held in public – the principle of open justice (*Scott v Scott* [1933] A.C.417);
15. Rule 38 of the FTP Rules provides that the panel must sit in private to consider matters that relate to a social worker’s physical or mental health, and may sit in private where it is considered appropriate to do so having regard to the vulnerability, welfare or interests of any participant, or having regard to the public interest;
16. The legal adviser further advised that in assessing a registrant’s fitness to practise and pursuance of the overriding objective, regulators look at three factors:
 - i. Public protection;
 - ii. Upholding professional standards; and
 - iii. Maintaining public confidence in the profession.
17. The panel decided that the aspects of the hearing that related to Ms Smith’s conviction would be held in public, and that all matters relating to her personal and private circumstances would be heard in private.

Review of the current order:

18. 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).
19. The current order is due to expire at the end of 02 June 2025.

The allegations found proved which resulted in the imposition of the final order were as follows:

“Regulatory concern 1

1. [Private].

Schedule 1

- a. [Private]

Regulatory concern 2

Whilst registered as a social worker on or around 19 October 2023;

2. *You were convicted of an offence of driving a motor vehicle whilst over the prescribed limit of alcohol.”*

The Case Examiners on 29 May 2024 determined the following with regard to impairment:

[Private]

The matter outlined in regulatory concern 2 amounts to the statutory ground of a criminal conviction or caution in the UK.

Your fitness to practise is impaired by reason of adverse physical or mental health and/or criminal conviction or caution in the UK.”

The Case Examiners on 29 May 2024 determined the following with regard to sanction:

“The case examiners note that the social worker has accepted the proposed disposal as outlined by them. The case examiners have given further consideration as to whether the proposed disposal of a suspension order of 12 months duration remains the most appropriate means of disposal.

The case examiners have reviewed their decision, paying particular regard to the overarching objectives of Social Work England, i.e., the protection of the public, the maintenance of public confidence in the social work profession, and the maintenance of proper standards. The case examiners are of the view they have not been presented with any new evidence that might change their previous assessment. The case examiners remain satisfied that an accepted disposal by was of a suspension order of 12 months duration is the minimum necessary to protect the public and the wider public interest.”

Submissions:

20. Social Work England submitted:

“Absent evidence of remediation [Private] prior to the review, Social Work England invite the Panel to extend the Suspension Order by a further 9 months.

The Social Worker has not engaged with the Case Review Team regarding the recommendations of the Case Examiners since the Order was made. There has been some limited engagement around renewal of registration and CPD. At present, the Social Worker has not provided evidence that she has further reflected on her practice or taken any additional steps to maintain her knowledge and skills. [Private] the Panel are invited to find that the Social Worker’s fitness to practise remains impaired, as it did at the time of the Accepted Disposal decision.

The Social Worker has not followed the recommendations of the Case Examiners and has not demonstrated remediation. The following recommendations were made at the time of the Accepted Disposal:

- *[Private]*
- *[Private]*
- *[Private]*
- *For the Social Worker to provide evidence of relevant continuing professional development, in order to demonstrate that they are able to return to practice.*

It is submitted that the Social Worker has not provided any confirmation of her intention to return to social work practice, or if she intends to re-engage and remediate her conduct. [Private] and fitness to return to practice it will not be possible to formulate workable conditions of practice that will be sufficient to protect the public.

The Panel are therefore invited to extend the Suspension Order for a further 9 months and to provide clear recommendations that would assist the Social Worker in her return to unrestricted practice in the future.”

21. There were no submissions made by Ms Smith.

Panel decision and reasons on current impairment:

22. 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 decision of the case examiners. However, it has 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' December 2022.
23. The panel had regard to all of the documentation before it, including the decision and reasons of the case examiners.
24. The panel heard and accepted the advice of the legal adviser. In reaching its decision, the panel was mindful of the need to protect the public and the wider public interest in declaring and upholding proper standards of behaviour and maintain public confidence in the profession.
25. The panel first considered whether Ms Smith's fitness to practise remains impaired.
26. The panel noted that Ms Smith has not followed the recommendations of the case examiners and has not provided any evidence demonstrating remediation. The panel noted that recommendations were made at the time of the Accepted Disposal, and that the Ms Smith has failed to act upon these. The panel recognised that whilst Ms Smith had demonstrated some insight prior to the imposition of the suspension order, she has engaged minimally since. The panel concluded that without any evidence of Ms Smith's current situation; further evidence of insight or remediation; *[Private]* it found that Ms Smith's fitness to practise remains impaired, as previously found by the case examiners.

Decision and reasons on sanction:

27. Having found that Ms Smith's fitness to practise is currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel had regard to the written submissions made by Social Work England along with all the information before it and accepted the advice of the legal adviser.
28. The panel considered the written submissions by Social Work England, in which they invited the panel to consider extending the current suspension order for a further period of 9 months. The panel also took into account the 'Impairment and sanctions guidance' December 2022 published by Social Work England.
29. The panel heard and accepted the legal advice of the legal adviser with regards the options available to the panel when looking at sanction.
30. The panel was mindful that the purpose of any sanction is not to punish Ms Smith, 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. The panel

applied the principle of proportionality by weighing Ms Smith's interests with the public interest.

31. The panel first considered whether no action, advice or warning would be appropriate in this case. It considered that the matters accepted by Ms Smith were too serious and therefore the options of no action, advice or warning would be inappropriate on the basis that these would not sufficiently protect the public.
32. The panel then went on to consider a conditions of practice order. It determined that without any evidence of remediation and due to a lack of engagement that conditions could not be formulated which would adequately protect the public and the wider public interest. Further, the panel noted that there was no evidence that Ms Smith would be willing to comply with any conditions imposed.
33. The panel therefore considered whether the current suspension order should be extended for a further period of time, noting that Social Work England had invited the panel to consider an extension for a period of 9 months.
34. A suspension order would prevent Ms Smith from practising during the suspension period, which would therefore protect the public and the wider public interest.
35. The panel determined that the suspension order should be extended for a period of 12 months. The panel was satisfied that an extension of the current suspension order would be appropriate as it would give Ms Smith further opportunity to demonstrate remediation and insight, whilst at the same time protecting the public and maintaining public confidence in the profession. It would also enable Ms Smith sufficient time to fully engage with her regulator. In all circumstances, the panel noted that Social Work England had submitted that the suspension order be extended by 9 months. However, the panel considered that this would not allow sufficient time for Ms Smith to demonstrate remediation and insight. In coming to this conclusion, the panel took into account that Ms Smith had not provided any up to date information or demonstrated any further insight or remediation.
36. Therefore, the panel consider that a future panel reviewing the case would be assisted by Ms Smith following the recommendations that were made at the point of the Accepted Disposal, namely:
 - a. *[Private]*
 - b. *[Private]*
 - c. *[Private]*
 - d. For the social worker to provide evidence of relevant continuing professional development, in order to demonstrate that they are able to return to practice.

Right of appeal:

37. 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.
38. 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.
39. 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.
40. This notice is served in accordance with Rules 44 and 45 of the Fitness to Practise Rules 2019 (as amended).

Review of final orders:

41. 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).
42. 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

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>