Social worker: Joanne Pestell
Registration number: SW103676
Fitness to Practise
Final Hearing

Dates of hearing: 24 March 2025 to 28 March 2025; 19 to 20 May 2025

Hearing venue: Remote hearing

Hearing outcome:
Fitness to practise impaired, suspension order (6 months)

Interim order:
Interim suspension order (18 months)

Introduction and attendees:

1. This is a hearing held under Part 5 of The Social Workers Regulations 2018 (as amended) ("the regulations").

2. Ms Pestell attended and was not represented.

3. Social Work England was represented by Ms Leila Tai, case presenter instructed by Capsticks LLP.

Adjudicators	**Role**
Caroline Healy	Chair
Joma Wellings-Longmore	Social worker adjudicator

Hearings team/Legal adviser	**Role**
James Dunstan & Hannah Granger	Hearings officers
Thomas Evans & Ruby Wade	Hearings support officers
Rosemary Rollason	Legal adviser

Preliminary matters:

4. Ms Tai applied for the hearing to take place partly in private. Ms Pestell 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 it may be necessary in this hearing to refer to Ms Pestell's private life, the panel was satisfied that the ground in rule 38(b)(ii) applied and determined that the hearing should be held in private where matters relating to Ms Pestell's private life were concerned. Otherwise, the hearing would proceed in public.

Allegations:

7. The allegations against Ms Pestell were as follows:

> *Whilst registered as a Social Worker at Luton Borough Council:*
>
> *1. In April 2017, you failed to arrange strategy meetings in relation to two service users within the expected timeframe.*
>
> *2. Between February and March 2018, you failed to adequately safeguard Child A in that:*

a. You failed to properly explore and/or take appropriate steps to act upon concerns relating to child sexual exploitation; and

b. You did not adequately record those concerns.

3. Between February and March 2018, you failed to adequately safeguard Person A's children, in that:

a. You failed to properly explore and/or take appropriate steps to act upon concerns relating to domestic abuse; and

b. You did not adequately record those concerns.

4. You failed to arrange for a qualified, independent interpreter to assist Person A at meetings on 12 and 26 February 2018 and instead allowed a personal friend of Person A to attend these meetings and assist in this function and to have access to confidential information.

Your actions at paragraph 1 constitute misconduct and/or lack of competence or capability.

Your actions at paragraphs 2, 3 and 4 constitute misconduct.

By reason of your misconduct and/or lack of competence, your fitness to practise is impaired.

Admissions:

8. Following the reading of the allegations the panel Chair asked Ms Pestell whether there were admissions in respect of any of the allegations. Ms Pestell stated that all the particulars of the allegation were denied.

Background

9. Social Work England's statement of case confirmed that the allegations against Ms Pestell arose during her employment at Luton Borough Council ("the Council"). On 26 June 2018, the Health and Care Professions Council ("the HCPC") received a referral regarding Ms Pestell from Brenda Gee, Deputy Team Manager in the Council's Family Safeguarding Team ("the Team").

10. Ms Pestell had worked at the Council from September 2001. Whilst working as a social work assistant Ms Pestell was supported by the Council to undertake a Social Work degree. After completing her degree in 2014, Ms Pestell commenced her Assessed and Supported Year in Employment ("ASYE") programme on 18 January 2016. This was extended several times and Ms Pestell had a reduced caseload with extensive

supervision. Ultimately, the ASYE was not completed prior to Ms Pestell leaving the Council.

11. The referral from the Council to the HCPC related to a number of safeguarding concerns. It was alleged that in April 2017, Ms Pestell failed to arrange strategy meetings in relation to two children deemed to be at significant risk within the appropriate and expected timeframe. This resulted in internal suspension and disciplinary action. Ms Pestell resumed her ASYE in January 2018. Further concerns arose regarding her performance and conduct, including a further safeguarding issue in relation to failing to adequately explore, escalate and record concerns that a service user in her care, Child A, may be a victim of child sexual exploitation.

12. A further safeguarding concern arose from an audit of Ms Pestell's records carried out on or around 18 April 2018 in respect of Person A and her children. There was concern that Ms Pestell had failed adequately to explore, escalate and record potential concerns about exposure to domestic abuse. The audit also identified that on two occasions, Ms Pestell had permitted a friend of Person A to act as an interpreter, rather than ensuring arrangements were in place for an appropriately qualified interpreter appointed by the Council to attend.

Evidence of Social Work England (summaries):

Diane Rushby

13. Ms Rushby adopted her witness statement dated 26 April 2023 and her supplementary witness statement dated 30 May 2023 and gave oral evidence.

14. Ms Rushby is Head of Service at the Council's Children's Services. Ms Rushby told the panel that at the time relevant to the allegations, she was the Team Manager for the Family Safeguarding Team.

15. Ms Rushby explained the requirement for a strategy meeting to be arranged within three working days of Children's Services receiving information to suggest that a child may be at risk of significant harm.

16. Ms Rushby stated that on Tuesday 25th April 2017 she had a discussion with Ms Pestell in relation to two cases on her caseload. One case concerned a family where there were concerns that the children were caught in abuse between or by the parents and there were concerns for the children's safety. In respect of the second case, there were significant child sexual exploitation concerns.

17. Ms Rushby told Ms Pestell to arrange strategy meetings for both cases on Friday 28 April 2017. Ms Rushby stated that Ms Pestell confirmed that she would do so, although she had annual leave booked for 26 and 27 April 2017. Ms Rushby stated that Ms Pestell appeared confident in her understanding of what was required. Ms Rushby understood that she had previously arranged strategy meetings on other cases.

18. Delay in arranging the strategy meetings came to light on 28th April 2017 at the end of a planned supervision session between Ms Pestell, her ASYE mentor and another deputy team leader. The meetings could then not be arranged until after the Bank Holiday weekend, on 3 and 4 May 2017 respectively.

19. Ms Rushby stated that the delay in the strategy meetings taking place exposed the children to significant and unacceptable risk of harm for an extended and avoidable period of time. It was confirmed that neither child did in fact come to harm as a result of the delay. However, the failure was identified as a potentially grave safeguarding issue that could amount to negligence by the Council.

20. Ms Rushby confirmed that at an investigative fact-finding meeting on 4 May 2017, Ms Pestell explained that she believed she had completed the task as required as she had a telephone conversation with a police officer about both cases on Friday 28 April 2017 and understood this to constitute the required strategy meetings.

21. Ms Rushby confirmed that Ms Pestell had received training on strategy meetings and had previously arranged them without issue. She referred to the Council's policies and procedures and the support available from team members if Ms Pestell had been unsure about what was required. Ms Rushby stated that as far as she recalled, when she spoke with Ms Pestell she (Ms Pestell) was clear about setting up the meetings and had no questions. Ms Rushby explained that a strategy meeting would need to be attended by the police and other professionals involved in the case. A telephone conversation with the police would not be sufficient to constitute a strategy meeting.

22. In relation to the meeting with Ms Pestell on 25th April 2017, Ms Rushby stated it was informal and not recorded. She stated that supervision may take place formally or informally. If it was informal, any directions given on a case would not necessarily be recorded. However, Ms Rushby believed that Lorraine Hanley, who was acting up, was aware of the instructions regarding the strategy meetings. Ms Rushby confirmed that it is possible for a strategy meeting to take place by a telephone conference, although this was less common prior to the period of the COVID-19 pandemic when most strategy meetings would take place in person, in a meeting room. If the strategy meeting did take place by telephone conference, it would still need to have the manager and the right level of police and professionals involved.

23. The panel asked if minutes would be kept if a decision was made to escalate a case in respect of child protection issues. Ms Rushby said that she believed if there was an instruction it would go on the child's case file, but she could not recall if this did or did not happen. However, Ms Rushby reiterated that the acting up deputy manager Lorraine Hanley was aware.

24. In respect of the policy document concerning Section 47 cases which had been produced in the hearing bundle, Ms Rushby could not confirm if this was the document in force in April 2017, but she stated the policy had not changed over the years. She said this would be a document which all the ASYE trainees would use and they would all have access to the policy on the document system. Ms Rushby confirmed that in this

case, the strategy meetings were required to be arranged within three working days of the concern. The reference to five working days would be in cases of particular complexity.

25. Ms Rushby was asked by the panel, given that her witness statement was dated April 2023, how she could recall this event without supervision notes to rely on. Ms Rushby said that she had a copy of her notes from the disciplinary hearing in December 2017 which she said was close to the events. These triggered her memory and what she was able to recall to include in her statement.

26. Ms Rushby was asked if it was usual for a social worker to be expected to arrange a strategy meeting whilst on annual leave. She responded that it was not expected, but if the social worker was willing and had knowledge of the case, she would appreciate them doing it. However, it would be made clear that the task could be handed over to another member of the team to deal with.

Brenda Gee

27. Ms Gee adopted her witness statement dated 25 April 2023 and her supplementary witness statement dated 4 May 2023 and gave oral evidence. Ms Gee is currently Quality Assurance and Improvement Officer at the Council. At the relevant time, she was the Deputy Team Manager for the Family Safeguarding Team.

28. In respect of Child A, Ms Gee stated that Ms Pestell attended a Child In Need meeting on 9 February 2018 and a home visit on 12 February 2018. She stated that the case notes indicated that Child A was, or may have been, at risk of child sexual exploitation, but did not evidence that this concern was properly explored or escalated. Ms Gee told the panel she would have expected Ms Pestell following these meetings to complete a full risk assessment, a safety plan, to use the NSPCC Graded Care Profile Tool and to have further conversations with Child A and her mother.

29. Ms Gee stated that she had supervision sessions with Ms Pestell on 19 February 2018, when she raised no concern over Child A, and on 6 March 2018, where Ms Pestell informed her that she had identified the potential risk of exploitation, but said she had not felt it was appropriate to raise it or take further action. Ms Gee identified this as a potentially serious safeguarding failure. At a meeting on 8 March 2018, Ms Pestell stated again that she had recognised the risk of child sexual exploitation, but had decided she did not have sufficient information to take action. Ms Gee stated that Ms Pestell would have been aware of her duty to identify these risks immediately and take appropriate safeguarding measures from her degree studies and training, and from her previous experience in her employment at the Council.

30. In respect of Person A, Ms Gee said that she had children aged four and seven. They were subject to Child in Need plans as a result of domestic abuse within the home. During a case audit, a review of Ms Pestell's case notes raised concerns that the safeguarding needs of the children had not been adequately met in relation to the domestic violence in the home. Ms Pestell had conducted a Child in Need home visit on 12 February 2018 and two monthly reviews with other professionals on 26 February

2018 and 19 March 2018. Ms Gee said the case notes indicated that Ms Pestell had failed properly to explore the risks to the children or exposure to domestic abuse and to take appropriate safety planning steps. Ms Gee would have expected Ms Pestell to make referrals to appropriate agencies and undertake direct support work with the children and their father. The records did not indicate that these steps had been taken.

31. Ms Gee confirmed that Ms Pestell had completed specific domestic abuse training as part of her degree and that this subject would have been regularly revisited during team meetings. Ms Pestell would have been aware of her duties to properly explore and escalate these risks with a focus on the children.

32. Ms Gee also told the panel that Ms Pestell's record of the home visit on 12 February 2018 indicated that Person A was not a native English speaker and had communication difficulties. A friend who was not a qualified or approved interpreter was present. The purpose of the meeting was to discuss confidential legal documents which Person A had received from her solicitor. Ms Gee said there was no evidence that Ms Pestell identified or raised any issue regarding the friend acting as interpreter and did not offer alternatives, such as rescheduling to allow for her to arrange for professional interpreter to attend.

33. Ms Gee referred to the Council's policy on the use of interpreters, *Using interpreters with children and families*" which set out the responsibilities of an allocated social worker to identify any communication needs of families and to make arrangements for an interpreter to be present when meeting with the child or family. A social worker was required to raise a request for approval with their team manager before contacting the service. Ms Gee confirmed that the policy would have been provided to Ms Pestell as part of her induction and that given her experience, it was very likely that she would have understood the need to arrange for qualified independent interpreters from the Council's identified agency.

34. Ms Gee confirmed the concerns were that allowing Person A's friend to act as interpreter could expose the family to potential confidentiality risks in relation to sensitive meetings with Children's Services and Person A's legal affairs. Further, there was no reassurance that the translation provided would be direct, unchanged, good quality and wholly objective, as would be expected from the services of a professional interpreter.

35. Ms Gee confirmed that at the time, she was deputy team manager and was responsible for supervising Ms Pestell. Ms Gee said that in addition to supervision sessions for Ms Pestell, additional support was available. Ms Pestell sat next or close to her and it was a small team so support was easily available. In terms of steps to be taken if child sexual exploitation was identified as a concern, Ms Gee said she would expect that this would be acted on almost immediately, that the concerns would be shared with a manager and a plan put in place.

36. Ms Gee stated that once Ms Pestell had identified a risk of child sexual exploitation, she would expect to see that recorded on the case file and discussed with herself or a senior manager in the team.

37. Ms Gee confirmed that the records of meetings with Ms Pestell were accurate as far as she could recall. The supervision record of 6 March 2018 recorded that Ms Pestell agreed she had not acted on safeguarding concerns and had learned and would act differently in the future. Ms Gee said that she would have had her notes at the time. Although they are not now available, she did not have any doubt about the accuracy of the records.

38. Ms Gee said that she believed that any of Ms Pestell's actions which were in question had not been intentional. She confirmed that it was considered that Ms Pestell had been given all the necessary support and equipment to undertake her role. [PRIVATE].

39. When Ms Pestell put to Ms Gee that she was 100% sure she completed more detailed notes which were now missing, Ms Gee said that she did not believe there were any case notes which had not been provided or were missing, although some of Ms Pestell's case records appeared incomplete.

40. Ms Gee did not accept that she had been dismissive of Ms Pestell's concerns about Child A. She also disputed telling Ms Pestell not to alter any notes which Ms Pestell had said this was why the case notes were not signed off as finalised, but were left open.

41. When Ms Pestell referred to being fearful of Ms Gee as her supervisor and having been told by Ms Gee not to demand attention from her, Ms Gee told the panel that she had worked at the Council since she was a newly qualified social worker and had known Ms Pestell for a long time. Ms Pestell had been apprehensive about Ms Gee being her supervisor, but Ms Gee said they had worked through it and she did the best she could. She had hoped that Ms Pestell could come to her and be open and honest about her feelings.

Evidence of the social worker (summary)

Joanne Pestell

42. Ms Pestell referred to her Social Work England Response document dated 8 June 2023 and gave oral evidence. Ms Pestell referred to her career history. She had worked for the Council since 13 September 2001. Ms Pestell said that she was supported by her manager to undertake a Social Work degree. She began her degree on 9 January 2010 when she was working as a Social Work Assistant in the West Integrated Service Team. Although it was a two-year programme, due to personal circumstances she did not complete the degree until 2014, when she obtained her BA Hons in Social Work.

Paragraph 1 of the allegation

43. Ms Pestell stated that she had previously been involved in arranging initial child protection conferences, but this was always directed and supported by a qualified social worker. In this case, Ms Pestell felt that she completed the task but accepted she did not carry out the correct procedure. At the time she believed there were two different processes. She had witnessed other social workers undertaking telephone strategy meetings before.

44. Ms Pestell told the panel that she had believed the procedure she had carried out was correct. One of the children was already in a foster placement and the second parent had already moved out of the house. She thought this was how she became confused about the process. The children were in a place of safety already and that was why she thought it was acceptable to speak to the police by telephone.

45. Ms Pestell said that there were no notes to confirm the instructions she was given by Diane Rushby to arrange the strategy meetings . She disputed that she had agreed to arrange the meetings whilst she was on leave. She stated she now fully understood the safeguarding procedures and timeframes and accepted that the action she had taken was incorrect. She understood that if the correct action was not undertaken, this could have had an impact on safeguarding of the children.

Paragraph 2

46. Ms Pestell stated that the family in question were allocated to her at the beginning of February 2018. She stated this was the first Child in Need meeting, on 9 February 2018, where professionals were able to discuss the family and their concerns. As recorded in the minutes, professionals were concerned about the children, but what was going on was unclear and she considered that some of the information from professionals was rumour or gossip from third parties. Ms Pestell said that she told Brenda Gee that she wanted to meet the family and investigate the concerns raised to ensure that she had the correct information. Ms Pestell felt that Ms Gee dismissed her concerns and it was only when Ms Gee reviewed the meeting minutes that she became concerned.

47. Ms Pestell accepted that she went to meet the family on 12 February 2018. She maintained that she did undertake the further investigation and made records, but said that the notes that she made had disappeared. She said the notes were completed on the workbook. The record on LCS was incomplete and had not been finalised. Ms Pestell accepted the plan made no reference to child sexual exploitation. She could not say if her note had disappeared when it was transferred from the workbook.

48. Ms Pestell said that she understood now that the workbook and LCS were different systems but she did not know this at the time as she had not had appropriate training. She maintained that she was told that everything to do with the case should go on the workbook and did not recall being aware that workbooks were totally separate and for supervision only, as stated by Ms Gee.

49. Ms Pestell referred to difficulties she had had uploading notes to LCS because of a problem of compatibility of her Dragon system with LCS. Ms Pestell maintained that

she carried out the required tasks and recorded notes, but the notes had not been located. She was adamant she had undertaken the work and it was recorded on the workbook, but the Council had said that her notes were not there. When asked if she accepted that she did not report her concerns about child sexual exploitation, Ms Pestell accepted to a certain extent she did not report them to the manager but felt she had previously been asked by managers "*where is your evidence?*" and that was why she went away to explore further.

Paragraph 3

50. Ms Pestell stated that she did record her concerns and was unsure why the case notes were not available. She stated that there were case notes of conversations she had with the father and his solicitor, including the father's new mobile contact number. The e-mail she received from the solicitor was uploaded to the system. She stated that the father was living in Birmingham at the time. He requested contact with the children, but then retracted this as he did not want contact to be supervised because the child stated she did not wish to have contact yet. Ms Pestell questioned where these notes were.

51. In response to questions, Ms Pestell stated that the father was not living at the property and she was working with the mother. The mother had wanted to go on one specific domestic abuse training course as it was conducted in her own language. The mother was saying it was too much to handle the Freedom Programme at the time and Ms Pestell had acknowledged it was not the right time for her. Ms Pestell said that there was a delay in getting the mother there, but the matter had been addressed.

52. Ms Pestell said she discussed domestic abuse with the mother and the older child. She made notes, but they could not be found. She had not noticed they were not on the system and she would not always go back and look at previous case notes. When asked if she accepted there had been concerns about the adequacy of her case recording, Ms Pestell accepted there has been delays in her recording of notes, but not in relation to the content of her notes. Ms Pestell accepted that the domestic abuse work needed to be undertaken with the family and maintained that it was done.

Paragraph 4

53. Ms Pestell stated that she was allocated this family on 29 January 2017 and the Child in Need meeting had been arranged by the previous social worker who had agreed that Person A's neighbour could attend as her interpreter. Ms Pestell said that during the time she worked with this family, Person A was offered an interpreter several times but declined as she was fearful that the interpreter would be known in her community. She preferred to use her friend. Ms Pestell said her decision was to try to build a relationship with Person A. She said she continued to use the neighbour because that was the only thing she could do in the circumstances. She said that she was finally able to persuade

Person A to use the Council's interpreting services and an interpreter was booked for the following Child in Need meeting.

54. Ms Pestell stated the case note produced was incomplete because more work had been undertaken, the detail of which was not shown. She maintained the case notes were put on the workbook and LCS and did not know why they were not included.

55. Ms Pestell stated in her written response that since her employment with the Council ended she had not been able to return to employment in practice as a social worker. Her confidence had been shattered and she was fearful she would not gain employment whilst a fitness to practise case was open against her. She said the whole experience had affected her emotionally. She had worked for the Council for many years and in those years had never been told that her knowledge or direct work was not child-centred or that her case recording content was not good. Ms Pestell said she often considered that there were assumptions that she knew how to complete tasks and understood processes, but she said that being a student for 4.5 years meant that over time, things had changed, in particular the IT system. She maintained that despite having all the additional technologies identified in her work assessment, Dragon and the encrypted dictaphone were not compatible with the new system rendering them useless. She maintained everyone in the team was aware of her difficulties since before her ASYE and this was why she did not mention it at the meetings in these cases.

56. [PRIVATE].

57. Ms Pestell stated that she had undertaken a lot of self-reflection around the concerns raised and took ownership of some of the mistakes she had made.

Finding and reasons on facts:

58. The panel heard and accepted the advice of the legal adviser as to the approach to take in determining its findings of facts. The burden of proof rests on Social Work England to prove the allegations. The standard of proof to be applied is the civil standard, the balance of probabilities.

59. The legal adviser provided advice on the issues of credibility and reliability, as per the guidance in *R (Dutta) v GMC [2020] EWHC 1974 (Admin*). In accordance with the guidance in the case of *Enemuwe v Nursing and Midwifery Council [2015] EWHC 2081 (Admin),* the panel should not be influenced by the findings of previous investigations but should reach its own, independent decision based on the evidence heard at this hearing. The panel was also reminded how to take into account the impact on the evidence of the passage of time since the date of the incidents in 2017 and 2018 and since the referral of the matter to the HCPC in 2018.

60. The panel carefully considered all the evidence presented, documentary and oral, together with the submissions of the parties.

61. The panel had heard a considerable amount of evidence from Ms Pestell about the context of her employment at the Council and about the impact of these lengthy proceedings upon her. The panel was mindful that this context would be appropriately considered at further stages of the hearing, if reached. At this stage, the panel's task was to consider whether the facts were proved.

62. As regards the impact of the passage of time since the events in 2017/18 upon the evidence, all the witnesses had at points in their evidence referred to difficulties in recollecting certain details. The panel determined to approach its consideration of the facts with close reference to the contemporaneous documents exhibited in the hearing documents. These included case notes, records of Ms Pestell's supervision meetings and ASYE progress reports, Council policies and notes of investigation and disciplinary meetings held by the Council.

63. Against this background, the panel considered the facts alleged.

Paragraph 1

In April 2017, you failed to arrange strategy meetings in relation to two service users within the expected timeframe.

64. Ms Pestell denied this allegation. However, the panel noted having heard the evidence that there was no dispute regarding the essential facts alleged: that on Tuesday 25 April 2017, Ms Rushby had a discussion with Ms Pestell about two children's cases on Ms Pestell's caseload. There were concerns that the children of one family were caught in abuse between, or by, the parents with concerns for their safety in being left without supervision. In relation to the second family, there were significant child sexual exploitation concerns. Ms Rushby instructed Ms Pestell to arrange strategy meetings for both cases to take place on Friday 28 April 2017.

65. Ms Rushby confirmed in evidence that the Council's policy required strategy meetings to be arranged within three working days, or within five working days where the concerns were of a more complex nature. The policy in question was exhibited in hearing documents. Ms Rushby's evidence was that Ms Pestell would have been aware of the policy and had received training on safeguarding.

66. Ms Pestell did not arrange the strategy meetings within the required timeframe of three working days. Instead, on 28 April 2017, Ms Pestell had a telephone call with the police when both cases were discussed. It was Ms Rushby's evidence, and was not disputed by Ms Pestell, that this telephone call did not constitute a strategy meeting. The appropriate level of police and other professionals involved in the relevant cases should be invited to a strategy meeting. Ms Pestell accepted that she had not followed the correct procedure.

67. The panel concluded that Ms Rushby was a professional and reliable witness who was clear when she was unable to recall any matters and whose memory was assisted by the records from the time of the events. The panel was satisfied that Ms Rushby issued the instruction to Ms Pestell. It was further satisfied that it was more likely than not that

Ms Pestell had access to and was aware of the Council's policy relating to strategy meetings.

68. There were aspects where the accounts of Ms Rushby and Ms Pestell differed. Ms Rushby stated that, although she was aware that Ms Pestell had booked annual leave on the 26 and 27 April, she (Ms Pestell) had agreed to arrange the strategy meetings. Ms Rushby said she told Ms Pestell that other staff could be asked to deal with the arrangements, but Ms Pestell said she would deal with them As Ms Pestell had knowledge of the cases and appeared willing and confident, Ms Rushby said that she accepted Ms Pestell's agreement to make the arrangements. In her evidence, Ms Pestell disputed that she had agreed to do this whilst she was on annual leave.

69. The panel heard from Ms Rushby that the discussion on 25 April 2017 was informal. Ms Rushby did not think she made a record. No record of the discussion was available to the panel. However, the panel noted the minutes of a fact-finding meeting held on 4 May 2017, where in her account Ms Pestell did not dispute that she had been given the instructions or that she had agreed to arrange the meeting because she was on leave. The panel concluded that these issues were not central to proof of the allegation, but preferred the evidence of Ms Rushby concerning these matters.

70. In relation to the facts as alleged in paragraph 1, the panel was satisfied on the balance of probabilities that Ms Pestell was required to arrange the appropriate strategy meeting in the timeframe and failed to do so. The panel found paragraph 1 proved.

Paragraph 2

Between February and March 2018, you failed to adequately safeguard Child A in that:

a. You failed to properly explore and/or take appropriate steps to act upon concerns relating to child sexual exploitation; and

b. You did not adequately record those concerns.

71. Ms Pestell denied this allegation. The panel heard evidence from Ms Gee that records in respect of a Child In Need meeting on 9 February 2018 and a home visit on 12 February 2018 relating to Child A contained information suggesting that Child A may be at risk of child sexual exploitation. The information indicated that Child A was spending time at her boyfriend's house, staying the night, may be having sexual relations and the boyfriend had been involved in an altercation with another young person and threatened with a knife.

72. Ms Gee stated in evidence that the records of these meetings did not record any indication that the issue of child sexual exploitation was properly explored or escalated by Ms Pestell. Ms Gee stated that the steps expected would be for the social worker to

complete a full risk assessment, a safety plan, use of the NSPCC Graded Care Profile tool and to undertake further conversations with Child A and her mother.

73. Ms Gee's evidence was that the case notes, which were exhibited, appeared unfinished and did not contain any reference to the steps taken to explore and safeguard against child sexual exploitation.

74. The panel had sight of the records of supervision meetings between Ms Gee and Ms Pestell on 19 February 2018 and 6 March 2018. In the former, there is no record that Ms Pestell raised the concerns. At the second, on 6 March 2018, Ms Gee raised the issue of the risk of child sexual exploitation and that Ms Pestell had not addressed this in her Child in Need minutes. Ms Gee initially concluded from the notes that Ms Pestell had not understood the safeguarding needs but that after speaking to her, it was clear that she did, but had not acted upon or noted the concerns.

75. The panel heard from Ms Pestell that her intention had been to seek further information and evidence, as she considered that the information was rumour and gossip. She referred to having in the past being asked by her managers "*where is your evidence?*". The panel noted these comments were reflected in the supervision note of 6 March 2018.

76. In her evidence to the panel, Ms Pestell contended that the case records produced by Ms Gee were incomplete and she had made further records. Ms Pestell stated that she had difficulties with the Council's record keeping system, Liquidlogic/LCS, including issues with the compatibility of her Dragon software and encrypted dictaphone. She maintained she had made notes in the Workbook, as she said she had been told to do by Ms Gee, and these had not been transferred across into the case notes on LCS. Ms Pestell maintained that Ms Gee and others at the Council were fully aware of her difficulties in this respect. Ms Gee disputed that she had instructed Ms Pestell to make entries on the Workbook, which she said was a separate system and was for supervision records. Ms Gee's evidence was that she was not aware that any notes were missing or had not been provided, although some of Ms Pestell's records appeared incomplete or unfinished. She did not recall Ms Pestell raising this suggestion in the meetings when this case was discussed.

77. The panel referred to the documents, including the record of the supervision meeting between Ms Pestell and Ms Gee on 6 March 2018, close in time to the events in question. Here, under "Reflection", it was recorded that Ms Pestell "agrees that this time she has not acted on the safeguarding as would be expected and has learned from this and would act differently". The same note records that Ms Pestell was upset as she felt she had considered child sexual exploitation and had spoken to the family and was worried she had "messed up". The panel concluded that Ms Gee was a professional and reliable witness who stated clearly when points arose that she was unable to recall. She retained a good recollection of her dealings with Ms Pestell overall and her memory was assisted by the contemporaneous records.

78. Having considered the contemporaneous records, together with the evidence of Ms Gee, the panel was satisfied on the balance of probabilities that paragraphs 2a and 2b were proved.

Paragraph 3

Between February and March 2018, you failed to adequately safeguard Person A's children, in that:

a. You failed to properly explore and/or take appropriate steps to act upon concerns relating to domestic abuse; and

b. You did not adequately record those concerns.

79. The evidence of Ms Gee in respect of this allegation was that the concern was highlighted in an audit of Ms Pestell's cases in April 2018. In the ASYE progress report of 20 April 2018 Ms Gee stated:

"...she currently holds a case whereby domestic abuse is of an extreme concern.....

.... A further concern is in relation to Ms Pestell's apparent acceptance of information provided by a Mother in regard to the level of domestic abuse she has suffered. Historically, concerns were raised in regard to mother's mental health condition however it is apparent from the recordings in the case that Ms Pestell has accepted the Mother's view at face value and has not made any attempts to gather or clarify information and has seen the father's absence from the home as a protective factor".

80. The panel had sight of the Child Plan Review and the Child in Need meeting completed on 26 February 2018 which contained references to domestic violence.

81. Ms Gee's evidence was the case was re-allocated to her following the audit. Ms Gee told the panel in her statement that it would have been expected that Ms Pestell provide information and support regarding the mother leaving the home, whilst offering details for independent domestic abuse advisory services; that she should have undertaken some direct work with the children to discuss domestic abuse and gathered their voices and experiences of their daily lives. Ms Gee further stated it would have been expected that some intervention and discussion would be undertaken with the father, and a referral considered to appropriate agencies who could offer him support. Ms Gee noted that these matters should be recorded on the case notes but in her view there was no evidence of such matters in the family's records.

82. The panel reviewed the available contemporaneous records relevant to this case. The panel noted that whilst in her witness statement Ms Gee stated that "*The Father remained in the home and the children were reliant upon both parents to care for them and therefore, were at risk of witnessing the domestic abuse*", the records and Ms Pestell's evidence indicated that the father had left the family home and was no longer

present. Whilst this did not entirely negate the concerns around domestic abuse, in the view of the panel, it was a relevant factor.

83. The panel concluded the records demonstrated that some actions of the nature described by Ms Gee had been undertaken by Ms Pestell and that this was reflected in the case records. There was evidence of consideration of support and domestic violence programmes for the mother, including reference to the Freedom Programme and the All Women's Centre which had a program delivered in Urdu. There was also reference to support being provided by The Buttle Trust. In addition, it is evident from the Child In Need review on 26 February 2018 that an Independent Domestic Violence Advisor had been engaging with the family. There was an indication that Ms Pestell had seen and engaged with the children. As regards the father, who was understood to be the perpetrator of the domestic violence, it appeared that he was no longer present in the home and may be subject to a legal non-molestation order.

84. Taking all the evidence into consideration, the panel concluded the records indicated that it was more likely than not that Ms Pestell had taken some steps to address the issues relating to domestic abuse and had recorded these actions in the case notes. The panel was not satisfied that paragraphs 3a and b were proved to the required standard, the balance of probabilities.

Paragraph 4

You failed to arrange for a qualified, independent interpreter to assist Person A at meetings on 12 and 26 February 2018 and instead allowed a personal friend of Person A to attend these meetings and assist in this function and to have access to confidential information.

85. Ms Pestell denied this allegation. However, in her evidence she did not dispute either that she had not arranged for a qualified, independent interpreter to be present at the meetings with Person A, or that she had allowed a friend/neighbour to attend the meetings and act as interpreter. She provided her explanation for the circumstances.

86. The panel had sight of the notes of the home visit completed by Ms Pestell in respect of the visit on 12 February 2018 which referred to the mother's lack of understanding of the written form of English and the request for her friend to come over to translate. This note refers to the purpose of the visit being "*to go through solicitors letter with mother*". The record of the visit on 26 February 2018 referred to the presence of a "*friend of mother and interpreter"*.

87. The panel heard evidence from Ms Gee regarding the Council's policy, "*Using interpreters with children and families*", which was also exhibited. Ms Gee confirmed that the policy would have been provided to Ms Pestell and that in the light of Ms Pestell's experience and training, she would have understood the need to arrange for a qualified, independent interpreter via the Council's identified agency. Ms Gee explained

the concerns where sensitive information relating to the family and confidential legal matters were to be discussed. She set out the steps she would expect a social worker to undertake if a service user was reluctant that a professional interpreter be used, which included explaining the position to them and telling them that the meeting could not continue without a professional interpreter.

88. Ms Pestell's account was that the previous social worker for the family had already arranged for the neighbour in question to act as an interpreter. Ms Pestell explained the concerns of the service user which related to the risk of a professional interpreter being known in her (the service user's) community. Ms Pestell's evidence was that at that time, she had no other option but to allow the neighbour to act as interpreter, but that she did have discussions with Person A with a view to trying to build a relationship with her. Eventually she was able to persuade Person A to allow an independent interpreter to be used. This was reflected in the records of a further meeting on 19 March 2017, when a professional interpreter attended.

89. The panel noted Ms Pestell's explanation of the circumstances, which may be relevant to the next stage of these proceedings. However, Ms Pestell did not appear to dispute the factual issues in this allegation.

90. The panel was satisfied that on the balance of probabilities that the facts alleged in paragraph 4 were proved.

Submissions on grounds and impairment of fitness to practise

91. Ms Tai presented written submissions dated 19 May 2025.

92. Social Work England's submission was that Ms Pestell's fitness to practise is currently impaired by reason of misconduct, and in relation to paragraph 1, also by lack of competence. Ms Tai referred the panel to relevant case law authorities in respect of these issues. She set out the standards of conduct and performance which she said were breached in the light of the panel's findings of fact.

93. Ms Tai submitted that in respect of the personal element of current impairment, Ms Pestell's actions had exposed vulnerable service users to unacceptable risks of grave harm, although no actual harm had resulted. Ms Tai said that Social Work England accepted that Ms Pestell's actions did not arise from character flaws and were capable of remediation. However, insufficient evidence of remediation had been presented by Ms Pestell.

94. Ms Tai submitted that Ms Pestell had not demonstrated any understanding of the impact of her actions on the vulnerable service users involved and the substantial, and avoidable, risk of harm to which they were exposed through her omissions. Ms Tai submitted that there was little recognition by Ms Pestell of how her actions fell below standards expected and the potential damage to wider public confidence in the profession. Ms Pestell's reflections were limited to the impact on herself. The "self-

reflection" and "ownership of some of the mistakes" asserted in Ms Pestell's most recent witness statement were not specific and were contradictory to her earlier accounts. Ms Tai submitted that there were in fact significant support mechanisms in place to assist Ms Pestell's training, development and successful completion of her ASYE. These included [PRIVATE], as well as a mentor, regular supervision and a reduced caseload.

95. Ms Pestell said that she was disappointed that the panel had upheld some of the factual allegations. She said that whilst the transcript of the previous days of the hearing referred to her having had relevant training, this did not happen. Ms Pestell said she was suspended for a period and then went into the team in question, but she maintained many assumptions were made about the training she had received.

96. Ms Pestell said that it was unfortunate that she had not returned to work since these events as she had believed that until the Social Work England proceedings were concluded she would not be able to obtain employment. She said she kept up her "*licence"* for the first few years but then could not afford it as she was not working.

97. Ms Pestell accepted that the training she has undertaken has been limited and she recognised that if she were to return to practice, she would need updating and to undergo further training. She said she felt she had taken a wrong decision and that if she had gone back to work*, "we probably wouldn't be here"*

98. Ms Pestell said she has not worked at all since these events. She is currently [PRIVATE] but does wish to resume social work practice in the future. She said that she recognises she would need training.

99. Ms Pestell told the panel she reads Community Care and has undertaken some free online training. At an early stage, she did some research in relation to CSE. She undertook adult mental health first aid training, mainly in relation to her interest in recognising the signs of mental illness.

100. Ms Pestell was asked by the panel how she now reflected upon the past concerns and what she thought the risks are to the public and her role. Ms Pestell said that not having understood what she was supposed to do meant that she did not arrange the meetings in time. She does understand now that there is a procedure she needs to follow. In relation to CSE, she thought she needed to have evidence. She could not prove that she had recorded her actions. She accepted that her actions put children at further risk of harm and said it was all "*overwhelming*".

101. Ms Pestell said that she still wished the panel to consider evidence she submitted to the hearing of her positive feedback from 2017 which she felt highlighted that her manager was not very supportive. She said she understands where she has gone wrong. She has to deal with [PRIVATE]. She said although the Council say that everything was in place, it wasn't there and that not having a working dictaphone or Dragon software was very difficult.

Finding and reasons on grounds:

102. The panel accepted the advice of the legal adviser. She reminded the panel of relevant caselaw guidance in relation to misconduct, lack of competence and impairment, including the cases of *Roylance v General Medical Council (No 2)* 2000 1 AC 311, *Calhaem v General Medical Council [2007] EWHC 2606 (Admin), Cohen v General Medical Council* 2008 EWHC 581 (Admin) and *Council for Healthcare Regulatory Excellence v Nursing and Midwifery Council, Paula Grant*.

103. The panel first considered whether in its judgement the ground of misconduct was established in relation to particulars 1, 2 and 4, and in relation to particular 1, whether lack of competence was established.

104. In respect of particular 1, the panel concluded that it is a fundamental responsibility of a social worker to understand and act upon safeguarding concerns in relation to vulnerable children. In this case, it was necessary to convene strategy meetings as required by the Council's policy so that all professionals involved with the child and family could discuss and address the concerns. This needed to be dealt with within the expected time frame of three days. Where these steps were not taken, vulnerable children were left at risk.

105. The panel took into account that Ms Pestell had taken some steps to arrange a discussion with the police which she told the panel that she thought at the time was sufficient. However, the panel took into account that this was not what was required in accordance with the Council's policy, or as described by Ms Rushby. The panel heard that Ms Pestell had had previous experience of arranging strategy meetings, albeit under the supervision of another social worker, and in this case she had the opportunity to seek advice or support from the manager or team if she was unsure what was required, despite being on annual leave at the time. The panel concluded that Ms Pestell's actions may have been well-intentioned, However, she was a qualified social worker although she was on her ASYE. She should have been aware of the steps that were required and she did not follow them.

106. The panel concluded that the failure to arrange strategy meetings as alleged left vulnerable children at risk and that this was a serious failing which amounted to misconduct.

107. The panel considered the advice it had received regarding lack of competence concerns which, as per the case of *Calhaem*, are usually based on a fair sample of a professional's work. The panel concluded that the lack of competence ground was not applicable in this case and that in any event, the conduct involved amounted to misconduct.

108. The panel noted that particular 2 concerned a very vulnerable young girl who was identified as a Child in Need, where there was a possibility of CSE, grooming and some evidence of an altercation involving a knife. These concerns were serious and needed to be acted upon promptly in order to avoid leaving the child at risk of harm. Whilst the

panel had heard from Ms Pestell that she wanted to seek further information and explore the issues raised about the child in the meeting, it was concerned that she had not acted promptly to bring the issues to the attention of her manager. The records also did not evidence that Ms Pestell had taken action to investigate further and address concerns. The panel noted that the time involved meant that these issues were not addressed for a substantial timeframe of approximately a month. The panel concluded this was a serious concern and amounted to misconduct.

109. In relation to particular 4, the panel was mindful of the Council's policy regarding the use of professional interpreters and recognised the concerns about the service user's confidentiality. However, the panel was mindful that Ms Pestell was faced with a situation where the service user had reasons for not wanting to have a professional interpreter involved and had declined the use of one. The panel noted that Ms Pestell had sought to engage with the service user, to build a relationship of trust with her and had encouraged the service user so that at the next meeting, a professional interpreter was able to be used.

110. The panel concluded that the concern in particular 4 did not reach the level of seriousness to amount to misconduct.

111. The panel concluded that the following standards, as applicable at the time in question, were breached by Ms Pestell's misconduct as found proved in particulars 1 and 2:

HCPC Standards of Conduct, Performance and Ethics (2016)

6.1 You must take all reasonable steps to reduce the risk of harm to service users, carers and colleagues as far as possible.

7.1 You must report any concerns about the safety or well-being of service users promptly and appropriately.

7.3 You must take appropriate action if you have concerns about the safety or well-being of children or vulnerable adults.

7.6 You must acknowledge and act on concerns raised to you, investigating, escalating or dealing with those concerns where it is appropriate for you to do so.

10.1 You must keep full, clear and accurate records for everyone you care for, treat, or provide other services to.

HCPC Proficiency Standards (2017)

1.3 Be able to undertake assessments of risk, need and capacity and respond appropriately.

2.3 Understand the need to protect, safeguard, promote and prioritise the wellbeing of children, young people and vulnerable adults.

4.1 *Be able to assess a situation, determine the nature and severity of the problem and call upon the required knowledge and experience to deal with it.*

10.1Be able to keep accurate, comprehensive and comprehensible records in accordance with applicable legislation, protocols and guidelines.

Finding and reasons on current impairment:

112. The legal adviser reminded the panel that having found misconduct proved it should next consider the question of current impairment of fitness to practise. The panel was referred to the impairment section in Social Work England's published Guidance on Impairment and Sanction ("the guidance") and to the principles from the case law authorities relating to impairment.

113. Having found that particulars 1 and 2 amounted to misconduct, the panel considered whether Ms Pestell's fitness to practise is currently impaired.

114. The panel considered that the conduct involved in those particulars was capable of being remedied. However, Ms Pestell had provided very limited evidence of remediation. The panel concluded that while she had demonstrated some evidence of insight into her past actions and there was some indication of reflection and remorse, this was not sufficient. While during the hearing Ms Pestell had acknowledged a number of factual issues, she had failed to demonstrate an understanding of the impact of her actions which she maintained arose from lack of adequate support. The panel concluded that Ms Pestell did not demonstrate sufficient understanding of the broader impact of her poor practice on service users and colleagues, or upon the reputation of the profession.

115. On the issue of adequate support, the panel concluded having heard the evidence of Ms Rushby and Ms Gee that in fact Ms Pestell received considerable support during the relevant time, although they accepted that there had been difficulties with some technical aspects.

116. The panel considered that Ms Pestell had not presented sufficient evidence to satisfy it that she had being able to address her past failings. The panel recognised that Ms Pestell had not been in employment as a social worker, believing that she would be unable to obtain a role whilst the Social Work England proceedings were ongoing. However, it appeared this was an untested belief. The panel considered that Ms Pestell might have been able to obtain employment in a related role which would have enabled her to bring forward up to date testimonials and evidence of keeping her relevant skills

up to date. The panel took into account the testimonials which Ms Pestell had submitted but these were not current and mainly dated back to December 2017.

117. Ms Pestell had told the panel of the limited efforts she had been able to make to undergo training by reading Community Care and undertaking some free online training. However, the panel was not satisfied this was sufficient and noted that other free or inexpensive resources are available, for example via the NSPCC.

118. The panel took into account the statements Ms Pestell had submitted, in particular her statement of 8 June 2023 and her oral evidence to the panel, but it concluded that she had not demonstrated meaningful or sufficient reflection.

119. Given the panel's concerns about the adequacy of Ms Pestell's insight or remediation, the panel concluded that there remained a risk of repetition of the past misconduct. The panel concluded that Ms Pestell's fitness to practise is impaired in relation to the personal element of current impairment.

120. In relation to the public element, the panel concluded that the public would expect a qualified social worker to act promptly to ensure that concerns relating to vulnerable children at risk were acted upon appropriately and that adequate safeguards were in place for children at risk. The public would expect social workers to understand and follow appropriate safeguarding procedures and seek advice from colleagues and managers to protect service users. The panel concluded that Ms Pestell's fitness to practise is also currently impaired in relation to the public element of current impairment.

Submissions on sanction

121. Ms Tai provided written submissions on sanction on behalf of Social Work England. Her submission was that, given the seriousness of the misconduct, the panel's findings of impairment and the risk of repetition, the panel should impose a period a sanction of suspension for a period of 12 months.

122. Ms Tai submitted that Ms Pestell's misconduct involved a serious breach of multiple professional standards which went to the heart of the social work profession, albeit falling short of requiring a removal order. A period of suspension which would enable Ms Pestell to undertake remediation whilst not placing her under unreasonable pressure of time.

123. Ms Tai stated that a conditions of practice order would not be appropriate in Ms Pestell's case. Although there was no evidence to suggest she would not comply with conditions, at the time in question Ms Pestell was under supervision as a result of undertaking her ASYE, which had been extended to allow for increased support, and also because she had recently returned from a period of suspension. At the time Ms Pestell also had a reduced caseload. Despite the additional support, the misconduct occurred on more than one occasion.

124. Ms Tai submitted that it would be difficult to identify conditions of practice, beyond the adjustments in place, which could prevent the risk of repetition, as well as be workable for Ms Pestell and any employer who might be supervising her.

125. In her submissions, Ms Pestell told the panel that she is remorseful and felt that she had explained this previously. She said that she did undertake some training and CPD, but it was in 2020 to 2022 and so she accepted that she would need to retrain.

126. Ms Pestell said that she now felt she had made a mistake by not going back to work following these incidents. She said she did not do so because she thought she was protecting people. She told the panel that she is willing to undertake training to make sure that her practice is up to standard. She said that she has limited funds but has now looked and found there are free courses available.

127. Ms Pestell told the panel that she would find a conditions of practice order workable and this order would give her the opportunity to correct where she went wrong.

128. Asked by the panel what she saw for her future, Ms Pestell said that she would like a role in fostering as this is what she knows. A previous manager had told her she had a lot of transferable and relevant skills. She said that she also enjoys working with older people and so might look for a role involving assessment of home needs.

129. Ms Pestell referred to [PRIVATE], but she said she accepted that ultimately safeguarding underlaid everything and so she would need further training regarding this.

130. Ms Pestell told the panel that she believed that she was not expected to return to her role after the first disciplinary matter. A manager told her that Luton Council were "out to get her" and she felt that she had almost played into this. She said that she feels she was under a lot of stress at the time given what she had been through and this was why she got into such a mess.

131. Ms Pestell said that she accepts she is slower at recording her notes and so the assistance of the dictaphone and Dragon software is imperative to her. She would need to make sure these were available wherever she might work in the future. She stated that she likes working with families and children but accepted that given her difficulties, a front line service may not be the right area for her. She reminded the panel that a lot of feedback in her ASYE had been quite positive so she felt it had been acknowledged that she had relevant abilities.

Decision and reasons on sanction:

132. The panel considered the submissions of the parties and accepted the advice of the legal adviser. The panel was reminded that the purpose of a sanction is not to punish the social worker, but to protect the public, to maintain public confidence and to uphold proper standards in the social work profession. The panel was advised to adopt

a proportionate approach and to have regard to Social Work England's Impairment and Sanctions Guidance ("the guidance").

133. The panel took into account all the submissions of Ms Tai and Ms Pestell and all the evidence it had heard during the hearing.

134. The starting point for the panel was that the misconduct it had found proved was serious. Whilst the panel was mindful that it had found proved two of the four original allegations brought by Social Work England, these were two incidents in which Ms Pestell's actions resulted in young people being put at risk because safeguarding concerns were not appropriately addressed. The incidents took place a year apart and the second occurred after Ms Pestell had undergone a period of suspension in relation to the first incident and had recently returned to her role. Whilst the panel acknowledged Ms Pestell's evidence that there were difficulties with the technical equipment which she felt impacted upon her performance, the panel had also heard that during this time that she had the benefit of closer supervision, support and a reduced caseload.

135. The panel had found that there remained a risk of repetition as Ms Pestell had not provided evidence of sufficient remediation or training. The panel heard that although she was not subject to any interim restrictions on her practice, Ms Pestell did not take the opportunity whilst the Social Work England proceedings were ongoing to maintain her relevant skills by seeking employment in a role either in, or related to, some form of social care. Consequently, she has now been out of practice as a social worker for over six years

136. The panel proceeded to consider the aggravating and mitigating factors present.

137. The panel identified as aggravating factors:

- the repetition of similar misconduct on two occasions despite the seriousness of the 2017 incident and the subsequent suspension and disciplinary proceedings;
- the lack of sufficient remediation, insight or reflection;
- the risk of recurrence of serious harm to service users.

138. As mitigating factors the panel noted:

- some evidence of positive performance from peers and managers, although this dated back some time and was not current;
- some expressions of insight and understanding of the gravity of the misconduct;
- lack of any previous fitness to practise history;
- [PRIVATE]
- Ms Pestell's level of experience as a social worker at the time, given that she was undertaking the ASYE.

139. In order to take a proportionate approach, the panel considered the sanction options in ascending order of gravity, considering the least restrictive options first.

140. The panel determined that it was necessary to make a final order, as to take no further action or to give advice or a warning would be inadequate in view of the seriousness of the findings in this case and the continuing risk the panel had identified. These directions would also not adequately reflect the public interest aspect of the case.

141. The panel next considered a conditions of practice order. The panel took account of the parties' submissions. Ms Pestell stated she is willing to comply with the conditions of practice order and recognises that she will need to undergo retraining. Social Work England submits that it would not be possible to formulate workable conditions of practice given the fact that the misconduct occurred on more than one occasion despite Ms Pestell receiving additional support at this time.

142. The panel gave very careful consideration to the possibility of formulating workable conditions of practice. It acknowledged the difficulty given that Ms Pestell is not currently in employment in a social work role and in the light of the points raised by Social Work England. Given the seriousness of the concerns, where vulnerable young people were placed at risk of harm, the panel could not be satisfied that conditions of practice would be appropriate or would maintain public confidence in the social work profession.

143. The panel went on to consider whether the next level of sanction, a suspension order, was required. The panel was satisfied that suspension would be a proportionate response in this case and would mark the serious findings and address the public interest. The panel was satisfied that a period of suspension would maintain public confidence in the social work profession and in Social Work England as its regulator.

144. The panel considered that a suspension for a period of 6 months would be appropriate and proportionate, as this period would address the public interest and also would provide a period of time for Ms Pestell to demonstrate that she has taken positive steps towards remedying her past misconduct.

145. The panel concluded that this was not a case where the conduct in question was fundamentally incompatible with continued registration. The panel considered that the misconduct was potentially remediable and taking account of all the factors it has identified in this case, a removal order would be disproportionate and unduly punitive.

146. There will be a review of this suspension order before its expiry. This panel is not able to bind any future reviewing panel, but suggests that a future panel may be assisted at the review hearing by Ms Pestell providing:

    a. evidence of work in a role not requiring social work registration, but related to social care which enables Ms Pestell to update relevant skills and provide testimonials/character references from a current employer;

b. evidence that Ms Pestell has taken proactive steps to investigate how she can return to social work practice when her suspension is concluded;

c. evidence of undertaking training and education relevant to her return to social work practice. Such evidence may relate to the area of social work practice she would wish to return to, but in any event should include evidence of training in relation to safeguarding;

d. a reflective piece addressing what happened in this case, why it happened, what went wrong and what she would do differently in the future;

147. The panel therefore directed that an order of suspension for a period of 6 months be imposed in respect of Ms Pestell's registration. This order will be reviewed before its expiry.

Interim order:

148. In light of its findings on sanction, the panel next considered an application by Ms Tai for an interim suspension order for 18 months to cover the appeal period before the final order becomes effective.

149. The panel considered whether to impose an interim order. It was mindful of its earlier findings and decided that it would be wholly incompatible with those earlier findings not to impose an interim order to protect the public during the period before the final order of suspension takes effect.

150. Accordingly, the panel concluded that an interim suspension order 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 suspension for 6 months shall take effect when the appeal period expires.

Right of appeal:

151. 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.

152. 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.

153. 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.

154. 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:

155. 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

156. 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:

157. 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.