

Social worker: Tapiwa Magaya

Registration number: SW135210

Fitness to Practise

Final Hearing

Dates of hearing: 01 December 2025 to 08 December 2025

Hearing venue: Remote hearing

Hearing outcome: Fitness to practise impaired, removal order and a
interim suspension order for 18 months was imposed to
cover the appeal period.

Introduction and attendees:

1. This is a hearing held under Part 5 of The Social Workers Regulations 2018 (as amended) (“the regulations”).
2. Mr Magaya did not attend and was not represented.
3. Social Work England was represented by Ms Pitters, Counsel, instructed by Capsticks LLP.

Adjudicators	Role
Philip Geering	Chair
Michael Branicki	Social worker adjudicator
Jane Dalton	Lay adjudicator

Hearings team/Legal adviser	Role
Hannah Granger/Jo Cooper	Hearings officer
Ruby Wade	Hearings support officer
Jane Lakin	Legal adviser

Documentation

4. The panel considered the following documentation and materials in advance of the hearing:
 - Hearing Timetable Bundle comprising 5 pages.
 - Anonymity Identification bundle comprising 1 page.
 - Statement of Case bundle (in part redacted) comprising 12 pages.
 - Exhibits bundle comprising 158 pages.
 - Statements bundle comprising 18 pages.
 - Social Work Response bundle comprising 59 pages.
 - Service and supplementary bundle comprising 49 pages.

In addition to this material the panel was also provided with two media files:

- Media file 1 (GR03) with a duration of 44 seconds

- Media file 2 (GR04) with a duration of 2 minutes and 17 seconds.

After the finding of facts regarding allegations 1,2 and 3, the panel was provided with an unredacted version of the Statement of Case on behalf of Social Work England along with a further exhibits bundle concerning the Disclosure & Barring Service, comprising 7 pages.

Service of notice:

5. The panel of adjudicators (hereafter “the panel”) was informed by Ms Pitters that notice of this hearing was sent to Mr Magaya by email to an address provided by the social worker (namely their registered address as it appears on the Social Work England register). Ms Pitters submitted that the notice of this hearing had been duly served.
6. The panel of adjudicators had careful regard to the documents contained in the final hearing service bundle as follows:
 - A copy of the notice of the final hearing dated 30 October 2025 and addressed to Mr Magaya at their email address which they provided to Social Work England.
 - An extract from the Social Work England Register as of 30 October 2025
 - 30 October 2025 detailing Mr Magaya’s registered email address.
 - A copy of a signed statement of service, on behalf of Social Work England, confirming that on 30 October 2025 the writer sent by email to Mr Magaya at the address referred to above: notice of hearing and related documents.
7. The panel accepted the advice of the legal adviser in relation to service of notice.
8. Having had regard to Rule 14 B The Social Work England (Fitness to Practise Rules) 2019 and all of the information before it in relation to the service of notice, the panel was satisfied that notice of this hearing had been served on Mr Magaya in accordance with Rule 14 B above.

Proceeding in the absence of the social worker:

9. The panel heard the submissions of Ms Pitters on behalf of Social Work England. Ms Pitters submitted that notice of this hearing had been duly served, no application for an adjournment had been made by Mr Magaya and as such there was no guarantee that adjourning today’s proceedings would secure their attendance. Ms Pitters further invited the panel to note that Mr Magaya had not engaged in the regulatory process since 11 October 2023 and that he effectively disengaged in the current process and had not attended the case management directions appointment which had taken place on 30 September 2025. Ms Pitters further invited the panel to note that Mr Magaya had not responded to any recent deadlines in relation to the case and had not provided a response as to whether he proposed to attend the hearing. Ms Pitters further submitted

that the allegations in this matter date back to July 2021 and that it was in the interests of justice and the expeditious disposal of the case that the hearing should proceed.

10. 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’.
11. The panel considered all of the information before it, together with the submissions made by Ms Pitters on behalf of Social Work England. The panel noted that Mr Magaya had been sent notice of today’s hearing in accordance with requirements of the Rules. He was informed of the date, details and format of the hearing and given the required notice. He was informed of his right to attend/appoint a representative, or to provide written submissions and advised that the hearing could proceed if he did not attend. The notice was sent to the email address which appeared on the extract from the register. This was the email address from which Mr Magaya had previously corresponded with Social Work England.
12. The panel noted that emails had been sent to Mr Magaya by Social Work England providing him with information about the hearing and asking whether he planned to attend. There was no response to any of the recent communications from Mr Magaya.
13. The panel also noted that in his email communications with Social Work England leading up to October 2023, Mr Magaya had indicated that he had no intention of working as a social worker again, that he had sought voluntary removal from the register, that he had in fact left the United Kingdom, and had started to work in another line of business.
14. The panel therefore concluded that Mr Magaya had chosen to voluntarily absent himself. He had not requested an adjournment for any reason nor indicated that he wished to participate. In the circumstances, the panel had no reason to believe that an adjournment would result in Mr Magaya’s attendance on a future date. The panel also took into account that the allegations in this matter now date back to events over four years ago. Social Work England’s witnesses were ready to proceed.
15. Having weighed the interests of Mr Magaya with those of Social Work England, the panel concluded that it was in the public interest that this case should proceed and be resolved. The panel therefore determined to proceed in Mr Magaya’s absence.
16. In doing so, the panel recognised that when considering the case in Mr Magaya’s absence, it had a responsibility to ensure that the hearing was as fair as circumstances would permit. The panel did not hold his absence against him in its consideration of the allegations. The panel further took steps to ensure that the hearing was fairly conducted in his absence. This included considering and raising questions about any points reasonably available on the evidence which might be in Mr Magaya’s interests.

Background

17. On 10 August 2021, Social Work England received a referral from Ms Rachel Okuna, Team Manager at Essex County Council regarding the Respondent social worker, Tapiwa Magaya. In 2021 the Social Worker was employed by Essex County Council and was supervised by Ms Okuna. He joined her team in on 23 March 2021 as a newly qualified social worker.
18. Service User K was allocated a social worker due to a referral from a police officer on 5 July 2021 which raised concerns around her health and ability to care for her young son and the environment in which the family resided.
19. Service User K made a report to the police that during two visits to her home, Mr Magaya had behaved inappropriately towards her, including calling her “beautiful” , seeking to arrange a “double date” with her and attempting to kiss her. The final visit to her home took place on 23 July 2021 and the matters alleged are said to have occurred at the visit on 23 July 2021 and the previous undated visit. Service User K provided a signed witness statement for the police. She initially engaged with Social Work England and has confirmed that the content of her account given to the police was true. Service User K is no longer engaging with Social Work England and has not agreed a witness statement in these proceedings. Service User K has stated in an email to Social Work England dated 13 February 2025 that *“it’s causing me to relapse on my PTSD every time it is mentioned.”* Person 2, who met Mr Magaya during his visit to Service User K’s home, provided a police witness statement but has not provided a statement for Social Work England. Following a case management hearing on 30 September 2025, Social Work England rely on this hearsay evidence provided to the police.
20. Case Management Directions were issued on 15 July 2025, which required the Social Worker to indicate, by 17 October 2025 which parts of this statement of case are admitted and which remain in dispute, including on the question of whether their fitness to practise is currently impaired. The social worker has not provided any response to the statement of case.
21. Mr Magaya was interviewed in 2021 by the police and his employer and he admitted that he had:
 - On the first visit to the Service User, called her beautiful.
 - Stood in close proximity to the Service User and explained how she should kiss a man and that he may have touched her cheek.
22. Mr Magaya denied that his behaviour was unprofessional or inappropriate.
23. Social Work England called evidence from the following witnesses:
 - a. DC Gregory Roche
 - b. Ms Racheal Okuna

24. Ms Beverly Thompson is a witness who provides evidence in respect of the Social Worker's role within the team and in respect of the allocation of Service User K to him, as such, Social Work England propose reading her statement and she will not be called to give oral evidence.
25. During the course of the second visit to Service User K's house two media files were generated from Person 2's mobile phone. These recordings were obtained by the police and have been provided to the panel with a summary (rather than verbatim) transcript.

Summary of Evidence

26. The panel heard firstly from DC Gregory Roche who confirmed the contents of his statement dated 9 July 2025 and gave oral evidence. The two media files referred to in paragraph 24 were played for the panel. DC Roche confirmed that his understanding was that Mr Magaya had not disputed that it was him speaking in the media clips or that any other issues regarding the validity of the recordings had been raised. DC Roche was asked for his view as to why Person 2 would have made the recordings. He stated that he understood this to be related to concerns that Service User K had following her initial interaction with Mr Magaya. DC Roche also stated that he felt that there may have been a relevant contextual point; namely that in general terms female anxiety towards male figures of authority had increased following the action of Police Officer Wayne Couzens and his subsequent conviction for murdering Sarah Everard.
27. DC Roche was asked as to whether there was anything about the complaint to suggest that it was made maliciously. DC Roche confirmed that he was not aware of anything which suggested that it was made maliciously. Service User K had remained engaged in the criminal process, remaining in contact with officers and engaging with an independent sexual violence advisor (ISVA). He stated that he was aware that Service User K was unhappy about the decision made by the CPS not to progress her complaint to a prosecution and that she voiced this complaint to officers.
28. DC Roche was asked why he considered the case had not been progressed to charge. He indicated that the case had some complex elements to it. He stated that there was some inconsistency in the accounts and there was no forensic evidence to corroborate the allegations. During this response DC Roche made reference to a further allegation made by Service User K that Mr Magaya had put his hands down her trousers. This information had not been provided to the panel previously and clarification was sought as to whether this allegation was the fourth allegation which is referred to later in this determination. It was confirmed that this was not the fourth allegation. The panel addressed the potential relevance of this information in terms of both potential bias and the sufficiency of the disclosure provided in the case and their determination on these points is detailed below in the preliminary matters section.
29. DC Roche was referred to Mr Magaya's response bundle and the fact that Mr Magaya considered the lack of DNA evidence against him to be very relevant and indicative that he had not acted in the way alleged. DC Roche confirmed that there was no DNA evidence corroborating the allegation that he has placed his hand down Service User

K's trousers. DC Roche indicated that this could be due to a variety of factors and was not in itself determinative of the veracity of the allegation or singularly determinative of the decision as to whether a prosecution would be progressed.

30. The panel heard evidence from Ms Okuna who was Mr Magaya's social work manager at the time of the allegations. She confirmed the contents of her statement dated 15 July 2025. She stated that it would have been her expectation that a social worker who had been involved in a visit such as that described by Mr Magaya as having taken place on 23 July 2021, would have been in touch immediately with their manager to highlight these issues and identify any required actions. She indicated that this has not been the case and she only became aware of the visit following Mr Magaya's arrest on the following day which was a Saturday. Ms Okuna was asked about the notebook which Mr Magaya indicated that he wrote in during the visit to Service User K. She confirmed that she had seen this and had initially retained this. She explained that she had now changed roles and employer and no longer had the notebook and did not anticipate being able to produce this.
31. Ms Okuna provided information regarding Mr Magaya's route to qualification. She confirmed that she recalled that he obtained his academic stage qualifications from a UK university and that he had undertaken placements in UK social work teams, she recalled one placement was in relation to Deprivation of Liberty cases.
32. Ms Okuna confirmed that following Service User K's complaint her case had been allocated to another social work team in another part of the County. When shown the relevant logs relating to this Ms Okuna confirmed that Service User K had refused to engage with the new team and that her social services case had been closed at the end of July 2021 as the threshold for intervention where there was no parental consent had not been deemed to have been reached. Ms Okuna indicated that she did not consider that there had been any prospect of Service User K's child being removed from her care, although this may have been something that Service User K may have been concerned about.
33. Ms Okuna was asked to explain to the panel her view on the seriousness of the alleged incident. Ms Okuna explained that she regarded the matter as serious for a variety of reasons. She was concerned that as a result of Mr Magaya's actions that a child had not received the safeguarding service that it should have had and that any concerns regarding the care they received had not been explored. She was also concerned about the potential abuse of power, the impact on Service User K and reputational damage to the professional standing of social workers and to Mr Magaya's social work department.
34. Ms Okuna was asked about comments which Mr Magaya had raised within his earlier undated responses to the allegations. Ms Okuna was referred to Mr Magaya's response in which he stated:

"As a black man cultural values and ego coupled with inexperience may have hindered the way I handled this situation and prevented me from picking up the red

flags and also English not being my first language, I admit I sometimes use words and phrases which sometimes causes distortion to the intended meaning.”

She was asked whether this was something she has identified as an issue with Mr Magaya during the time that she has worked with him. She confirmed that this was not her experience of Mr Magaya.

35. Ms Okuna was asked about the following comment within the undated submissions from Mr Magaya and whether the practice models referenced explained the alleged actions taken:

“The officer asked why I engaged in that to which I responded saying in social work we use different practice models such as Relationship based practice, Person Centred, Solution Focussed, Problem Solving hence as part of rapport building leading to the assessment, I respond to what Service User K was asking of me.”

Ms Okuna stated that the practice models did not explain and were not consistent with the alleged actions.

36. Ms Okuna was asked about the following comment within the undated submissions from Mr Magaya and her response to this:

“On reflection and with a bit of hindsight I could have handled some of the conversation and questions different. These things come with time, practise, wisdom and experience which I am in the infancy of and developing.”

Ms Okuna stated that the profession would suffer if every social worker started their career with “that baseline”. She went on to say that as part of registering with Social Work England, all social workers needed to evidence how they met the professional standards and ethics required. She did not accept the description given by Mr Magaya as set out above.

37. The evidence of Ms Thompson was contained within her statement dated 30 July 2025 and had been provided to the panel ahead of the hearing. This was accepted as read into the record of the hearing.
38. No recent submissions or direct oral testimony had been provided by the social worker. As a matter of fairness in his absence, the panel considered such comments on the allegations as the social worker had made in earlier written submissions contained within the social worker’s response bundle. However, the panel bore in mind that these comments were not sworn evidence which had been tested in questioning at the hearing. This impacted on the weight which could be given to these submissions. The panel sought where appropriate to ask the witnesses who had been called to give direct evidence points which the social worker had raised.

Preliminary matters:

Privacy

39. The panel noted that there may be the potential for witnesses to not adhere to the anonymisation key when giving evidence and to accidentally utilise the name of the persons concerned. The panel agreed that in accordance with Regulation 32 that the names of those persons referred to in the anonymisation key, if used, would be marked as private. Similarly in the event of any health information relating to Mr Magya being shared within the proceedings, in accordance with Rules 37 and 38 of the Rules, these would be marked as private.

Bias and Predetermination

40. The panel sought representations from Social Work England in relation to the additional information which had been provided by DC Roche in relation to the additional allegation which had been made by Service User K and which had not been progressed by the CPS or Social Work England. Ms Pitters indicated that it would be improper for the panel to recuse themselves on the basis of having heard this information. It was confirmed that this did not relate to the fourth subsequent allegation which was to be provided to the panel upon conclusion of the determination of allegations 1-3. Ms Pitters confirmed that the panel had not heard about this matter in detail, it had been referenced very briefly in DC Roche's evidence in chief and within his cross examination. Ms Pitters observed that the information heard could be considered to be supportive of Mr Magaya's assertion that matters had not progressed against him due to limited DNA evidence.
41. The panel considered legal advice that Registrants have a right to a fair trial in accordance with Article 6(1) of the European Convention on Human Rights. The case of *Porter v Magill* [2001] UKHL 67 [2002] 2 ac 357 confirms that the test for apparent bias is whether a fair-minded and informed observer, having considered all of the relevant facts, would consider that there is a real possibility that the tribunal would be biased as a result of hearing this information.
42. The panel considered this and concluded that they did not consider that the additional information was such as to lead a fair-minded and informed observer to consider that there was a real possibility of the panel being biased. The panel were also advised in relation to the case of *Suleman v General Optical Council* [2023]. One of the panel members placed on record that they had held a senior position with the CPS approximately 20 years ago. The panel concluded that this would not cause a fair-minded and informed observer, having considered all of the relevant facts, to consider that there is a real possibility that the panel would be biased.

Disclosure

43. The panel sought legal advice in relation to the issue of sufficiency of disclosure in light of the additional information which had been referenced by DC Roche. The legal adviser

confirmed that the panel should be satisfied and assured that any evidence which would assist the defence or undermine the regulator's case in relation to the allegations being determined had been provided to Mr Magaya and to the panel. Submissions were sought from Social Work England regarding this issue. Ms Pitters confirmed that she has initially reviewed the schedule of unused material during the course of the regulatory proceedings and agreed to review this again to assure the panel that all relevant material was before them and had been provided to Mr Magaya. Ms Pitters returned to the panel the following morning and confirmed that she had reviewed the schedule of unused material and assured the panel that any information which any evidence which would assist the defence or undermine the regulator's case in relation to the allegations being determined had been provided to Mr Magaya and to the panel.

Good character evidence/direction

44. The panel were mindful that as Mr Magaya was not present at the hearing, he was unable to invite the panel to consider his good character in determining matters of disputed facts were this a relevant consideration. Ms Pitters was able to make inquiries and confirm that Mr Magaya had not been previously subject to regulatory proceedings.

Notebook

45. The panel requested that inquiries were made in order to determine if the notebook mentioned by Ms Okuna within her evidence could be obtained. The panel considered that this document may be helpful in terms of identifying a date for allegation 2 and also for providing potential corroboration regarding any matters arising during the home visits in July 2021. Ms Pitters confirmed that this document had not been obtained by Social Work England during their investigation and that the prospect of recovery was now slim given the passage of time and the fact that people in whose possession it may have been have changed roles and authorities during the intervening time. Ms Pitters submitted that Mr Magaya had been involved in the early part of the regulatory process and had not sought disclosure of this material. The panel considered carefully whether additional inquiries were necessary to seek to locate the notebook. The panel did not consider that Mr Magaya's failure to ask for the notebook was a valid consideration; the responsibility for the investigation belonged to Social Work England and in addition Mr Magaya was unrepresented and may be unfamiliar with matters of evidence.
46. The panel considered that it was regrettable that the notebook had been secured. However, the panel considered that the notebook was only one source of information relating to the visits. The panel had witness statements taken shortly after the 23 July 2021, including Mr Magaya's account and media files and phone records and call handler logs of the 999 calls, amongst other material. The panel also took a view that at this stage the prospect of recovering the notebook in a reasonable time, or even at all, were as Social Work England described, "slim". The panel therefore concluded that it would not be appropriate to delay matters further to seek to identify if the notebook could be obtained.

Amendment of the allegations

47. During the panel's deliberations in relation to the factual basis of the allegations the panel noted a potential ambiguity in the wording of the allegation. The panel considered allegation 3 could be read to suggest that findings found proved in relation to both allegations 1 and 2 were required in order to consider a finding of sexual motivation. Such an interpretation appeared inconsistent with the clear particularisation and the alternate basis advanced in allegation 1(c). Submissions were therefore sought from Social Work England to confirm the basis of their case. Ms Pitters confirmed that Social Work England considered that a finding of sexual motivation could be found in relation to any subsection or multiple subsections found. An application was therefore invited from Social Work England in respect of an amendment to the allegation to clarify this and ensure complete transparency in relation to the allegation.
48. The panel were advised by the legal adviser that an amendment at a late stage was permissible if this was balanced against the need to enable a fair hearing to all parties, including Mr Magaya and including Social Work England.
49. The panel considered that amending allegation 3 to read as follows "***Your actions at allegations 1a and/or 1b and/or 1c and/or 2 d are sexually motivated.***" provided a more transparent and clearer allegation. This amendment did not introduce any additional elements into the *allegation* but enable the panel to reach a more specific determination in relation to which, if any, of the particularised elements of the allegations were found to be sexually motivated. This would also prevent the panel being unable to make a finding of sexual motivation if it did not find such a motivation in relation to a single element of the allegation. Social Work England confirmed that their case was based on the consideration of sexual motivation in respect of each individual element of the allegation, the amendment would not change that position but simply clarify this for any person considering the allegation, be that the social worker or the public. The amendment also reflected the requirement to consider the overarching objective of public protection and the wider public interest.

Allegations (as amended)

1. On 23 July 2021 whilst registered as a social worker you failed to maintain a professional relationship with a service user, which included:

(a) Suggesting that you could arrange a double date for Service User K

(b) Grabbing the Service Users face and trying to kiss her

Or

(c) Explaining to Service User K how she should kiss a man

2. On a date unknown whilst registered as a social worker you failed to maintain a professional relationship with a service user, which included:

Calling Service User K beautiful

3. Your actions at allegation 1(a) and/or 1(b) and/or 1(c) and/or 2(d) was or were sexually motivated

Legal advice

50. The panel accepted the advice of the legal adviser. The advice included reference to the burden of proof, which remains upon Social Work England equally where the social worker is not in attendance, and the standard of proof, which is the civil standard, the balance of probabilities. The panel was provided with guidance in relation to the definition of sexual motivation and were referred to the case of General Medical Council v Haris [2020] EWHC 2518 (Admin) which provided authority that inference of sexual motivation may in some circumstances be drawn from the actions of an individual where direct evidence of sexual motivations and gratification may not be available. Mrs Justice Foster stated that in the Haris case the only reasonable inference that could be drawn from the facts was that the behaviour was sexual. This was derived from the fact that the touching was of the sexual organs, there was no clinical justification and no other plausible reason for the touching. In Basson, Mostyn J gave a definition of sexual motive: *“sexual motive means that the conduct was done either in pursuit of sexual gratification or in pursuit of a future sexual relationship”*.

Finding and reasons on facts:

51. The panel considered the allegations in turn.

Allegation 1 (a)

On 23 July 2021 whilst registered as a social worker you failed to maintain a professional relationship with a service user, which included;

(a) Suggesting that you could arrange a double date for Service User K

52. The panel considered as a preliminary issue whether they considered the media files which had been provided to them to be a credible and reliable source of evidence; particularly as these seemed to be highly relevant in determining the issue as to whether this statement regarding a double date had been made. The panel noted that DC Roche had confirmed that the recordings appeared validly made and that Mr Magaya had not raised any issue to suggest that it was not his voice on the recording. The panel accepted Mr Magaya's point that the recordings were of a very short duration but none the less the recording did appear to cover the point at which particular reference was made to a double date. The panel were mindful that the recording had been obtained covertly and that the police transcript of the recordings were a summary rather than a verbatim record.
53. Mr Magaya was asked within his police interview about the recording when interviewed by PC Martin, the arresting officer, on 25 July 2021 albeit it appears the recordings were

not played in the interview. Mr Magaya was asked specifically about the double date comment in the recording. He states:

“Right. This is where I said she was asking about, um, going on a fancy restaurant and to end that conversation I said I have a wife and a daughter that is nearly two years, but I have friends that are tall because she kept saying, I want someone tall like you. And I said, I have friends that are tall and big, I can arrange a double, triple, date where you and WITNESS can come. If you're happy with my friends, you keep. So I'm sure the person that was recording that is WITNESS because she's the one who kept asking, do you like me or you like VICTIM? Are you going to use, uh, coming to see CHILD as an excuse to see VICTIM?”

54. This therefore provides confirmation from Mr Magaya himself that he made a comment regarding a double date. Later on, in the police interview, Mr Magaya goes onto state that:

“If I say that, it must be because when I said I don't like the other one, then she said, you don't like me. I said, no, you are beautiful, but then I have someone I can arrange a double date for you to go out.”

55. DC Roche proved a summary of the video clip which addresses this particular point:

“I have a confession to make before we start”. He says “when I returned to the office one of my friends was like so how was it how was the cat lady and I said oh this cat lady (... Unclear audio...) Then when I told him about you referring to other female) ... I really have to meet this girl, I said ok, we can do like a double lunch date.”

56. Within Service User K's evidence, she describes the conversation with Mr Magaya when he arrived at her flat on 23 July 2021. She recalls the conversation as follows:

“Tapiwa has sat on my sofa and said to me ‘Before we start, we need to talk about personal matters’. My friend the witness has began recording TAPIWA as I raised my eyes at her to indicate I felt uncomfortable I can exhibit this at KD/01 AND KD/02. TAPIWA has made suggestions that I should attend a double date with him I can't recall exactly what was said but it will be captured on the recording.”

57. On the video recording Mr Magaya is clearly heard talking about a double date and the fact that he wishes to take Service User K on a double date. The panel noted the contents of the call handler record of the 999-call made by Service User K. The record notes that Service User K states at 13.28.26 on the 23 July 2021 that:

“He was saying that he thought that she was pretty and that he wanted to take her out”

58. The panel had considered whether Service User K's allegation may have been malicious and fabricated, in particular given her unfounded concern that the involvement of the social worker might lead to the removal of her child. The panel has dismissed this concern. In reaching this conclusion, the panel places some weight on the professional opinion of DC Roche, that he had such concern in mind as a standard issue to consider but had found no evidence to support such a concern. The panel also noted that, as at the end of July 2021, the local authority closed its case regarding Service User K and she would have been informed of this, yet she persisted in the allegation and with her engagement with the police into 2022 when the CPS decided not to prosecute, a decision she was unhappy with. The panel was satisfied that Service User K was not fabricating a malicious allegation, nonetheless the panel has of course considered whether she may have been mistaken in her understanding of events.
59. The panel considered that the consistency across the above evidence, from both Mr Magaya and also from Service User K was significant; additionally, it found the video evidence was compelling. The panel were mindful that they had not had the opportunity to ask questions of Service User K and test her evidence. The panel did however consider that her evidence was consistent with evidence from other sources and therefore they gave weight to her evidence. The panel found that on the balance of probabilities Mr Magaya made the alleged comment, which was a failure to maintain professional relationships. It would be inappropriate for a social worker to propose seeing a service user on a date, and a date with a service user would not serve any professional purpose. The panel therefore found this allegation proved.

Allegation 1 (b)

1. On 23 July 2021 whilst registered as a social worker you failed to maintain a professional relationship with a service user, which included.

(b) Grabbing the Service Users face and trying to kiss her

60. In this regard the panel considered the accounts provided by Mr Magaya and by Service User K and additional evidence which provided either corroboration for this or cast doubt upon the veracity of this. The panel considered initially the statement which had been provided by Service User K. In the statement which was provided to the police in the hours after the alleged offence:

“TAPIWA has stepped towards me and grabbed my face and moved in to kiss me on the lips. I have turned my head away and he has pulled my face back to face him at which point I pushed him away with both hands. I said STOP DONT DO THAT PLEASE MY SON IS AT THE DOOR.”

61. The panel noted that account was given to the police within hours of the alleged incident occurring. The panel have noted that the 999-call made to the police at 13:20:35 hours on 23 July 2021, being a very short time after the alleged incident, also provides a consistent account of the alleged incident. The panel has been mindful that the record has been taken by a call handler and so is the call handler's interpretation of

the information which was provided by Service User K, rather than necessarily a record of the words specifically used by her. There are however a number of points of congruence in terms of the information provided to the police and in the text messages sent by Service User K which were dispatched shortly before the call to the police. The police call handler has also recorded that Service User K appeared to be *“very shocked and shaken up”*. The panel recognised that the police statement by Service User K is hearsay. Nonetheless, it is supported and corroborated in material particulars by the contemporaneous records in both the text messages and subsequent records made by the police call handler. The text messages included an urgent message from Service User K to Person 2 to attend in the flat *“Come up now – now – now”*, *“I’m fucking shaking”*, and in text messages to her mother *“mum I’m fucking shaking mate. You won’t believe what’s happened to me, [Person 2] went out for a fag, trying to kiss me”*. Within the police call handler’s records, it records Service User K reporting *“the suspect making previous verbal advances towards her... the perp[ertrator] has kissed the victim”*. Taken together, they present a coherent and sufficiently consistent account which is credible and the panel concludes can be relied upon for the purposes of these proceedings.

62. At the conclusion of the text messages Service User K receives advice from her mother that she should contact the police and this is the action which she then takes.
63. The panel have considered that it has not been possible to question Service User K in person or Person 2 in relation to the statements which they provided to the police. The panel consider that it would be appropriate to attach weight to the statements notwithstanding this due to the degree of corroboration between the statements and the other available material.
64. In order to contrast the account provided by Mr Magaya it is appropriate to consider allegation 1(c) before reaching a determination on allegation 1 (b) as these represent alternate explanations and allegations.

Allegation 1 (c)

*On 23 July 2021 whilst registered as a social worker you failed to maintain a professional relationship with a service user, which included;
(c) Explaining to Service User K how she should kiss a man*

65. The panel initially considered the explanation which had been provided by Mr Magaya and considered if there was any corroborative evidence available to support his assertions.
66. In his police interview on 25 July 2021 Mr Magaya addressed the same situation and stated as follows:

“On one occasion he was talking to victim about how she was seeing a man, but he was much taller than her. She was worried about how to kiss him, so MAGAYA told her to stand up and he would show her. They then got close to each other,

and he explained how to kiss him. He admitted that he may have touched her cheek where he was illustrating his explanation during this, although he did not actually kiss her.”

67. The panel noted that Mr Magaya’s explanation was provided to his employer in an interview on 26 July 2021.

“Service User K then informed Tapiwa that there is a guy who likes her but he was short. She stated that she prefers tall men like Tapiwa. She explained to him further that she did not like short men because she did not know how to kiss them. She then asked Tapiwa to stand up so that she can make him understand her problem.

Service User K now standing showed Tapiwa where the man interested in her comes up to her height wise and therefore it was awkward to kiss him. Tapiwa said that he gave her advice that she should cup his face with her hands and turn his head upwards so he looks up then her problem is solved.”

68. Whilst the panel noted the similarities in the two accounts, there is also a significant inconsistency regarding the described height of the man – short or tall. The panel also considered Mr Magaya’s explanation to be inconsistent with the reaction of Service User K, recorded by the police call handler as being “very distressed”. Had the interaction been as suggested by Mr Magaya, it seemed unlikely that the reaction of Service User K would have been as traumatic as outlined. The panel also found it implausible that a professional social worker, even a newly qualified social worker, would have considered it appropriate to take a role in showing a service user how to kiss people. The panel concluded that the evidence supported that the interaction is likely to have moved beyond an explanation (1(c)) and it is more likely that some degree of physical interaction took place (1(b)).
69. The panel noted the answer which had been provided by Ms Okuna in relation to Mr Magaya’s assertion that such comments may be part of a rapport building person centred model of working. Ms Okuna did not accept that the actions were consistent with that model of working.
70. The panel preferred the account provided by Service User K as set out in allegation 1(b). The panel was also satisfied that Mr Magaya’s attempt to kiss Service User K was a failure to maintain a professional relationship with her. There could be no professional purpose to attempting to kiss her in the circumstances of this case. The panel therefore found that allegation 1(b) (Service User K’s account) was proven and the alternative allegation 1(c) (Mr Magaya’s explanation) was not proven.

Allegation 2

On a date unknown whilst registered as a social worker you failed to maintain a professional relationship with a service user, which included:

(d) Calling Service User K beautiful

71. The panel then went onto consider allegation 2.
72. Mr Magaya was asked in his police interview about the use of the word “beautiful” and stated as follows:

MAGAYA: *All right. So this happened in the first visit where it was VICTIM, her mother and WITNESS.*

PC 80388: *Okay.*

MAGAYA: *So I said to the mother, I'm happy to work with this family. You all have beautiful smile. It's nice to work with people that smile when they let you into their house. You have good kids in your family. So it was directed to the group not to VICTIM herself.*

PC 80388: *Okay. So, um, you said the first visit, um, I'm happy to work with people with a beautiful smile and that was directed at the group.*

MAGAYA: *The group, not VICTIM.*

73. It is clear that he admits using the word “beautiful” but Mr Magaya suggests the comment was a reference to the smiles of all the persons present rather than Service User K individually.
74. When the police interviewed Mr Magaya about the events of his second visit to Service User K, he was referred to the video recording in which he again is heard to use the word “beautiful” in the context of referring to Service User K. Mr Magaya replied as follows:

“If I say that, it must be because when I said I don't like the other one, then she said, you don't like me. I said, no, you are beautiful...”

75. The panel listened to the recording and it appears to confirm that Mr Magaya referred to Service User K as “no, you are beautiful the way you are”.
76. It appears from the 999 Call that Service User K had indeed understood Mr Magaya as referring specifically to her appearance, albeit the police call handler has recorded this using the term “pretty”, as follows:

“THIS IS THE SECOND APPOINTMENT THE INFT HAS HAD WITH THE MALE. BEFORE AT THE FIRST ONE HE WAS SAYING THAT HE THOUGHT SHE WAS PRETTY AND THAT HE WANTED TO TAKE HER OUT. HER MUM WAS THERE THE FIRST TIME AND THOUGHT IT WAS VERY INAPPROPRIATE”.

77. Taking all of the evidence as a whole, the panel is satisfied on a balance of probabilities that Mr Magaya has used the word “beautiful”, that he did so at the both the first and the second visit, and that his comment was directed specifically to Service User K, though he may also have referred to others as “beautiful”, and that to do so he failed to maintain a professional relationship with Service User K. Accordingly, the panel finds this allegation proven.

Allegation 3

Your actions at allegation 1(a) and/or 1(b) and/or 1(c) and/or 2(d) was or were sexually motivated

78. The panel then considered allegation 3 and whether the actions found above were sexually motivated. The panel considered that sexual motivation would be found if Mr Magaya was seeking to form an intimate relationship with Service User A or to obtain sexual gratification from their interactions.
79. In relation to allegation 1(a) (the invitation to a double date), the panel had considered whether Mr Magaya was seeking to attend the double date himself or simply set this up between Service User K and/or her friend with his work colleagues. Mr Magaya reference “we can do like a double lunch date” suggesting that it is his intention to attend the “date” and to develop a non-professional association with Service User K. The panel had in mind the earlier video clip in which Mr Magaya, in response to a suggestion that he wanted to “see” Service User K, he can be heard to say “no, no, no that is not true”. Nonetheless, the panel concluded that this denial is outweighed by the later quote proposing a double date and this conclusion is underscored by the panel’s finding that he attempted to kiss her. The “date” would have had no relevance to his role as a social worker or the assessment being undertaken of Service User K. The common sense inference is that his suggestion of a “double date” was a move to pursue a relationship with Service User K outside of his professional role, and that he was in fact seeking to form an intimate relationship with Service User K. The panel therefore finds that allegation 3 is proved in relation to allegation 1(a).
80. In relation to allegation 1(b) (the attempt to kiss Service User K) the common sense inference is that this was done by Mr Magaya either to obtain sexual gratification and/or to seek to form an intimate relationship with Service User K. There can be no professional explanation for him trying to kiss her in the circumstances found by this panel. The panel therefore finds that the attempt to kiss her was sexually motivated and accordingly finds allegation 3 proven in relation to allegation 1(b).
81. Having found allegation 1(c) not proved, it being the alternative to allegation 1(b), the panel did not go on to consider if this alleged conduct was sexually motivated.
82. The panel went on to consider whether the conduct found proved in allegation 2(d) (referring to Service User K as “beautiful”) was also sexually motivated. The panel concluded that on the balance of probabilities it could not be satisfied that Mr Magaya made these remarks with a sexual motivation. The panel could not discount the possibility that his comments about Service User K, and others, being “beautiful” to have been based on a cultural norm that Mr Magaya was accustomed to. To do so may still have been inappropriate in the circumstances, but the panel could not be satisfied that it was sexually motivated. Accordingly, the panel did not find sexual motivation with regard to allegation 2(d) and therefore did not find allegation 3 proved in relation to allegation 2(d).

83. Throughout its consideration of the facts of this case, and in reaching its determinations set out above, the panel has had in mind the social worker's good character. That is to say, there are no previous regulatory findings against him, and with that in mind the panel has taken particular care in its scrutiny of the evidence and the analysis that has led to those findings, particularly with regard to those areas of the case that have been disputed by Mr Magaya.
84. Following the determination of allegations 1 – 3 above the panel were then provided with details of the additional allegation which had been referenced within the case management hearing on 30 September 2025. The panel were provided with an additional bundle of documents comprising a Disclosure and Barring Service Decision Letter dated 13 March 2024 and the unredacted statement of case which detailed allegation 4.

Allegation 4

On 13 March 2024 you were made subject to findings of the Disclosure and Barring Service and Children's and/or Adults barred list namely:

a) "Grabbing [Service User K]'s face and trying to kiss her"¹

b) "Calling [Service User K] beautiful"

c) Suggesting a double date with Service User K and Person 2 which resulted in you being included on the Disclosure and Barring Service's Children's Barred list and the Adult's Barred list.

85. Ms Pitters on behalf of Social Work England invited the panel to find the allegation proven on the basis of the contents of the decision letter and confirmation that Mr Magaya had been included on both the Children's Barred List and the Adults Barred List in accordance with Schedule 3, paragraphs 3 and 9 of the Safeguarding Vulnerable Groups Act 2006 on 13 March 2024.
86. The legal adviser reminded the panel that the burden of proof remained with Social Work England and invited the panel to note that there was no material within the bundle suggesting that any appeal had been made by Mr Magaya or was outstanding. The panel noted the following statements within the letter:

"As a result, we have included your name in the Children's Barred List using our barring powers as defined in Schedule 3, paragraph 3 of the Safeguarding Vulnerable Groups Act 2006 (SVGA) on 13/03/2024

As a result, we also included your name in the Adults' Barred List using our barring powers as defined in Schedule 3, paragraph 9 of the Safeguarding Vulnerable Groups Act 2006 (SVGA) on 13/03/2024"

87. The panel concluded that these provided clear and reliable evidence that Mr Magaya was included on the Children and Adults Barred List as alleged. The panel found allegation 4 to be proven.

Notification of the decision on facts to Mr Magaya

88. The panel heard and accepted legal advice that the decision of the panel in respect of the facts found should be sent to Mr Magaya at this stage. This would provide an additional prompt for Mr Magaya to engage in the process and for him to be sighted on the decisions made to date. The legal adviser confirmed that Social Work England's guidance for evidence given outside of the UK permits evidence to be given from abroad and there is an approximate two hour time difference in the event Mr Magaya wished to participate.
89. The panel sought submissions from Social Work England as to whether an adjournment was necessitated in order to afford Mr Magaya an opportunity to consider the material. Ms Pitters confirmed that Social Work England did not seek an adjournment as it was not likely to result in Mr Magaya's attendance given that he had been disengaged from the process since October 2023. Whilst there was capacity in the timetable for an adjournment there was no evidence to suggest it would result in further participation from Mr Magaya.
90. The panel agreed that the decision document should be provided to Mr Magaya to support his participation in the process, should he wish to do so. The panel did not consider that it would be appropriate to adjourn the hearing given the absence of any indication that Mr Magaya sought to participate further in the process.

Social Work England's submissions on grounds and impairment

91. Ms Pitters submitted that that the findings of fact made by the panel amounted to misconduct occurring within a professional context which was serious, meeting the guidance criteria contained in *Roylance v. GMC (No.2) [2000] AC 311*. Ms Pitters further referred the panel to Lord Clyde's comment in the same case, namely that "the standard of propriety may often be found by reference to the rules and standards."
92. Ms Pitters referred the panel to the following Social Work England Professional Standards (2019) and submitted that the findings made by the panel demonstrated that Mr Magaya's actions had breached these:

"2.2 Respect and maintain people's dignity and privacy.

2.3 Maintain professional relationships with people and ensure that they understand the role of a social worker in their lives.

2.4 Practise in ways that demonstrate empathy, perseverance, authority, confidence and capability, working with people to enable full participation in discussions and decision making.

3.1 Work within legal and ethical frameworks, using my professional authority and judgement appropriately.

As a social worker, I will not:

5.1 Abuse, neglect, discriminate, exploit or harm anyone, or condone this by others

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

93. Ms Pitters submitted that the findings evidenced that serious harm had been caused to both the Service User K and her child. The panel had found that allegations 1(a) and (b) were sexually motivated which was a clear breach of the standards and the use of language found at 2(d) whilst not sexually motivated, was clearly inappropriate. The actions found were such as to undermine trust and confidence in the social work profession. The actions were such as to result in Service User K and her son being deprived of social work intervention which may have been required and beneficial to them.
94. In relation to the finding at allegation 4, regarding Mr Magaya’s inclusion on the barred list for working with children and adults, Ms Pitters submitted that it was a very serious ongoing risk. Mr Magaya had been deemed unsuitable to work with children and adults and to represent an ongoing risk to them.
95. Ms Pitters further submitted that the alternate explanation provided by Mr Magaya at allegation 1 (c), which the panel had not accepted, was indicative of Mr Magaya seeking to minimise his culpability and thereby failed to demonstrate any insight into his actions. Mr Magaya had provided no evidence of remediation or any action taken in order to address any of the concerns evidenced. In those circumstances it was submitted that the risk of repetition remained high.
96. Ms Pitters submitted that the misconduct in this case engaged both public protection and the wider public interest concerns. She submitted that public interest includes the need to uphold proper standards of conduct and behaviour and the need to maintain the public’s trust and confidence in the profession. A member of the public would be alarmed by the social worker’s alleged conduct. Sexually motivated behaviour and a breach of professional boundaries with a vulnerable person has the potential to seriously undermine public trust in social workers and to damage the reputation of the profession. Ms Pitters submitted that the panel should find current impairment.

Social Work England’s application to amend the statement of case

97. During the course of Ms Pitters’ submissions, the panel noted that the statement of case included the following statement on page 2:

“The matters set out at paragraphs 1 and 3 above amount to the statutory ground of misconduct.”

98. Clarification was sought from Ms Pitters as to whether this correctly recorded Social Work England's position or whether it contained a typographical error and should also refer to allegation 2. Ms Pitters confirmed that it did contain a typographical error and was intended to read 1, 2 and 3. She therefore made an application to amend the statement to read:

"The matters set out at paragraphs 1, 2 and 3 above amount to the statutory ground of misconduct."

99. Ms Pitters acknowledged that the application was being made at a later stage in the proceedings but submitted there was a precedent authority confirming that the panel could grant such an application, *Walter Hugh Merricks CBE v Mastercard Incorporated [2023]*. Ms Pitters submitted that there was no disadvantage to Mr Magaya as the amendment did not change the way in which Social Work England had put their case throughout; it simply corrected a typographical error.
100. The panel heard and accepted legal advice that whilst such an amendment would be consistent with the documentation contents overall and that such amendments can be permitted. The panel does however need to consider whether in doing so any prejudice would be caused to Mr Magaya. The panel should also be mindful of Social Work England's overarching objectives in considering the application.
101. The panel considered the overarching objectives of Social Work England, to protect the public and to promote and maintain proper professional standards. They concluded that the amendment was permissible to ensure consistency and transparency within the allegation and to ensure the hearing addressed all matters upon which findings had been made. The panel considered whether this would prejudice Mr Magaya and concluded that it would not as the amended sentence confirmed the position of Social Work England as stated throughout the proceedings and in Social Work England's statement of case previously provided to Mr Magaya.

Legal advice on grounds

102. The panel heard the advice of the legal adviser regarding statutory grounds. This included reminding the panel that whether the facts found proved amount to the ground of misconduct is a matter for the panel's own judgment. The panel should consider the conduct in the light of the standards applicable at the time of the events. However, not every departure from the standards will amount to misconduct. The panel was advised that in order to amount to misconduct, the acts or omissions in question must represent a serious falling short of expected standards.

Finding and reasons on grounds

103. The panel had regard to the submissions on behalf of Social Work England. The panel accepted the advice of the legal adviser regarding grounds. The panel started by

reviewing the prevailing professional standards in order to determine which, if any, it considered may have breached by Mr Magaya.

104. The allegation found proven at 1(b) was a clear violation of Service User K's dignity. Mr Magaya had attempted to grab and kiss her in her own home in the presence of her young son and this caused distress to Service User K. Asking for a "date" with Service User K as found at allegation 1(a) and the finding at 2(d) involving the use of inappropriate and overly familiar language with Service User K breached standard 2.2. Mr Magaya failed to respect and maintain her dignity.
105. All the proven allegation evidence that Mr Magaya did not "*maintain a professional relationships with Service User K and ensure that they understood the role of a social worker in their lives*" and thereby breached standard 2.3. The panel noted that Service User K and her child may have been deprived of a social work service as result of the actions of Mr Magaya and that such a service may have been very beneficial to them.
106. The panel considered standard 2.4 which requires social workers to demonstrate empathy, perseverance, authority, confidence and capability, working with people to enable full participation in discussions and decision making. The panel found that Mr Magaya's actions entirely lacked many of these qualities, and instead sexually objectified Service User K and exploited her anxieties about social work intervention and violated the security of her home. The panel concluded Mr Magaya breached standard 2.4.
107. The panel considered standard 3.1 which requires social workers to work within legal and ethic frameworks, using their professional authority and judgement appropriately. The panel was satisfied that Mr Magaya has not practised ethically, and has taken advantage of his authority over a woman who he knew was concerned that her child would be taken away by social services. He was not acting in her best interests or those of the child, but pursuing his own interests in seeking a relationship with her outside of his professional engagement. The panel concluded Mr Magaya breached standard 3.1.
108. The panel found that Mr Magaya had not acted in accordance with professional standard 5.1 and 5.2. His actions towards Service User K were exploitative and abusive. His behaviour was such that it "*would bring into question my suitability to work as a social worker while at work, or outside of work*".
109. Having reviewed all the prevailing professional standards, the panel concurred that standards 2.2, 2.3, 2.4, 3.1, 5.1 and 5.2 had been breached.
110. The panel considered the breaches were serious and repeated over two visits to Service User K's home. They resulted in a vulnerable service user and her child being deprived of a social work assessment and service, which may have been very beneficial to them. A child had been present when Mr Magaya grabbed the service user and attempted to kiss her which had resulted in Service User K being distressed, and there is evidence her son was also distressed which may well have been caused by Mr Magaya's misconduct. In addition, Person 1 and Person 2 were both caused significant upset.

111. Service User K was particularly vulnerable at the time 1(b) occurred having experienced a burglary and having sought police intervention in this regard. When visiting the home the police had been concerned about the home conditions for Service User K and her child and had made a statutory referral on this basis. The referral on 5 July 2025 stated *“Due to the poor condition of the property, there is serious concern the child could come to harm.”* The reason for the initial and subsequent visits by Mr Magaya was therefore of great importance. The referral had led to Service User K being mistrusting and anxious about statutory intervention and concerned that her child may be removed from her care. The situation therefore required skilled and appropriate intervention by Mr Magaya to support and assess the situation. Instead, he exploited the situation to pursue sexual gratification, distressing both Service User K and possibly the very child he had been entrusted to protect.
112. The panel also had regard to Social Work England’s guidance on impairment and sanctions, including those paragraphs concerned with guidance on particular types of concerns including concerns involving abuse of trust and concerns regarding sexual misconduct involving service users, both of which apply in this case. The guidance highlights that social workers hold privileged positions, will engage with vulnerable people, that they need to be trusted in their work, and that an abuse of that trust would be a serious matter. The guidance goes on in relation to sexual misconduct to highlight that sexual misconduct would be particularly serious if it is directed to a service user, that it involves a coercive factor, that the service user was particularly vulnerable, and if the behaviour is predatory. The panel concluded that all of this guidance is relevant in this case. Mr Magaya’s behaviour involved a significant breach of trust, both towards the service user and the public more generally. His misconduct was directed towards a vulnerable service user who feared that he might take her child away, and his behaviour can be regarded as having been persistent given that his inappropriate behaviour occurred over two home visits.
113. Ms Okuna in her evidence stated that Mr Magaya was clearly not thinking about the child or about serving the public during the visit, rather his actions were an abuse of the power vested in social workers and therefore put Service User K and her child at risk. His actions threatened the integrity of multi-agency safeguarding work with professional agencies needing to have assurance that their referrals would be responded to correctly.
114. As a result of Mr Magaya’s actions Service User K refused to consent to further social work intervention, and the assessment of her and her child was not completed by the new team to whom they were allocated. Whilst the new social work team did not consider the threshold for compulsory intervention was met; the family may have been deprived of services and support which they could have been assessed to require and benefit from.
115. The panel is satisfied that the multiple breaches of standards and the overall circumstances of this case as found by the panel are serious matters. The panel is

therefore satisfied that misconduct is established on the basis of its findings on allegations 1, 2 and 3.

116. The panel considered the finding at allegation 4. This is a specific ground as detailed in Regulation 25 (2)(g) Social Workers Regulation 2018. Given the panel's factual finding, that Mr Magaya is DBS listed, the second statutory ground set out in the allegation (of being DBS listed) is established.

Legal advice on impairment

117. The panel heard and accepted the advice of the legal adviser that the issue of current impairment is a matter of judgment for the panel, applying the principles in *CHRE v NMC and Grant* [2011] EWHC 927 (Admin). Impairment has both a personal component, including focusing on insight, remediation, and risk of repetition, and a public component, concerned with maintaining confidence in the profession and upholding proper standards. The panel was reminded that it should consider whether the social worker's conduct demonstrates a risk of harm, brings the profession into disrepute and breaches fundamental tenets.
118. The panel was further advised, following *Cohen v GMC* [2008] EWHC 581 (Admin), to take a forward-looking approach and consider whether the concerns are easily remediable, whether they have been remedied, and whether repetition is highly unlikely. Relevant factors include the seriousness of the misconduct, the social worker's level of insight and responsibility, the extent of remediation, the likelihood of repetition, and the impact on public confidence. If the panel concludes the registrant cannot safely practise unrestricted, their fitness to practise is impaired.

Finding and reasons on current impairment

119. After finding that the facts proved amounted to serious misconduct, and that the second statutory ground (being DBS listed) is also established, the panel went on to consider whether Mr Magaya's fitness to practise was currently impaired by reason of either or both of the statutory grounds. In doing so, it reminded itself of the need to assess both the personal component, which addresses the risk of repetition and protection of the public, and the wider public component, which concerns the maintenance of confidence in the profession and the upholding of proper professional standards.
120. In relation to the personal component, the panel determined that the misconduct demonstrated entrenched attitudinal failings rather than isolated mistakes. The repeated impropriety during two visits and providing misleading accounts of the incident to his employer and the police when interviewed were of great concern. The panel noted that there is no recognition by Mr Magaya of the impact on either Service User K or her child in respect of his actions.
121. The panel noted that Mr Magaya had sought to shift responsibility for his actions onto others. He suggested, for example, that Service User K had invited him to demonstrate

how to kiss a taller man or had been seeking to engage in a relationship with him. He was entirely dismissive and disrespectful of Service User K when interviewed by the police. In his written submissions for these proceedings, Mr Magaya referred to her as a “dirty woman” and sought to blame his use of unprofessional language on inexperience and cultural norms. This was discounted by Ms Okuna who said that the actions were not reflective of the baseline skills required by a social worker. The panel considered that such attempts to deflect blame were inconsistent with genuine acceptance of responsibility and further demonstrated a lack of meaningful insight.

122. In addition, the panel noted there was no significant evidence of genuine reflection or remorse, objective remediation, or structured work, such as retraining, to address professional failings, and no independent testimonials demonstrating change. Mr Magaya’s written submission minimised responsibility and did not engage with the seriousness of the misconduct. Whilst there was an acknowledgment by Mr Magaya of the language he had used, it carried very limited weight in light of the overall minimisation and blame-shifting and did not demonstrate meaningful insight or mitigate the seriousness. Taken together, these factors led the panel to conclude that the risk of repetition remained significant. In light of this conclusion, the panel concluded that Mr Magaya currently presents a risk of causing further harm, in particular to vulnerable female service users and those associated with them.
123. Turning to the public component, the panel considered that social workers hold a position of significant trust, particularly when working with vulnerable service users. Misconduct of this nature undermined that trust and damaged the reputation of the profession. The public would be alarmed to know that a social worker was using home visits as an opportunity to engage in sexual relationships or make sexual advances to vulnerable people, particularly doing so in the presence of their young children.
124. The public would be equally alarmed to consider that a social worker was on the barred lists in relation to children and adults and therefore deemed a risk to the very cohorts they should be protecting and safeguarding.
125. The panel considered that this had the potential to affect not only the service user and the child involved, but also the wider system of multi-agency safeguarding. Misconduct has the potential to distort the work of professionals across agencies who depend on reliable professionals to make informed decisions. In this case Mr Magaya has breached multiple professional standards and caused harm. Agencies need to be confident that a referral to social services is not placing individuals at further risk of harm.
126. The panel determined that public confidence would be seriously compromised if such conduct were not marked by a finding of impairment. It concluded that it was essential to declare and uphold the standards of professional practice, including maintaining appropriate boundaries, and protecting service users from harm.
127. The panel considered that given the violation of the professional relationship between Mr Magaya and Service User K it was necessary to reaffirm clear standards of

professional conduct so as to maintain public confidence in the profession. It must be clearly stated that social workers are to work in the best interests of service users if public trust is to be maintained and not undermined by social workers who exploit their position in a sexually motivated way.

128. The panel further concluded in the light of its analysis and conclusions set out above that it should also find impairment in order to uphold professional standards. Just as the public must be reassured that social workers act in the best interests of service users, social workers must also understand that this is what is required and that any deviation from this will be taken seriously.
129. Having regard to both the personal and public components, the panel concluded that Mr Magaya's fitness to practise is currently impaired, on both statutory grounds, namely misconduct and being DBS listed, and to do so for the protection of the public, the maintenance of public confidence and to uphold professional standards. The panel was satisfied that this is a necessary and proportionate conclusion.

Notification of the decision on impairment to Mr Magaya

130. The panel heard and accepted legal advice that the decision of the panel in respect of impairment should be sent to Mr Magaya at this stage. This would provide a further prompt for Mr Magaya to engage in the process and for him to be sighted on the decisions made to date.
131. The panel sought submissions from Social Work England as to whether an adjournment was necessary to afford Mr Magaya an opportunity to consider the material. Ms Pitters confirmed that Social Work England did not seek an adjournment as it was not likely to result in Mr Magaya's attendance given that he had been disengaged from the process since October 2023. The notification of the panel's decision in relation to facts which had been sent to Mr Magaya earlier in the hearing process had not elicited a response from him.
132. The panel agreed that the decision document should be provided to Mr Magaya to support his participation in the process, should he wish to do so. The panel did not consider that it would be appropriate to adjourn the hearing given the absence of any indication that Mr Magaya sought to participate further in the process.

Social Work England representations on sanctions

133. Ms Pitters submitted that the appropriate sanction was a matter for the panel's discretion taking into consideration the Social Work England Guidance regarding Impairment and Sanctions (hereinafter "the guidance "). She submitted that whilst the panel should select the least restrictive sanction they considered appropriate, they may take the view that a removal order was the only appropriate outcome given the findings which the panel had made. Ms Pitters stated that the actions of Mr Magaya had been of a predatory sexual nature, were repeated and represented an abuse of the power which he held in relation to a service user. The actions crossed the boundaries

which should have been maintained between Mr Magaya and Service User K and her family. Service User K had experienced a burglary and was therefore concerned about her safety and that of her child and her home. Ms Pitters submitted that Mr Magaya's actions in grabbing Service User K and seeking to kiss her caused harm to a number of people in a number of ways, including Service User K, her child and Person 1 and Person 2.

134. Ms Pitters submitted that there was longer term harm arising from Mr Magaya's actions which the panel had identified within their findings. Service User K had refused to consent to the completion of the assessment of her and her son's situation which may have resulted in them not receiving services to which they were entitled. Ms Pitters submitted that the panel had also identified potential systemic harm resulting from a loss of confidence in social service's ability to respond appropriately to a child protection referral from a safeguarding partner.
135. Ms Pitters submitted that lesser orders would require the panel to find that Mr Magaya had or was capable of remediation; this would be inherently difficult in cases where there entrenched attitudinal failings had been found. Ms Pitters further submitted that a less restrictive sanction would not be sufficient to declare and affirm and thereby uphold the standards required of social workers. Ms Pitters submitted that the public would be very concerned to know that a social worker who had abused their power and who was on the barred list was able to work in that role.
136. Ms Pitters referred the panel to the range of potential outcomes, as referred to in the guidance. Whilst she accepted that the panel would need to consider the sanctions in ascending order, she drew the panel's attention to paragraph 163 which stated that:

"In all cases of serious sexual misconduct, it will be highly likely that the only proportionate sanction is a removal order. If decision makers decide that a sanction other than a removal order would be appropriate, they must fully explain why they have made that decision."

Ms Pitters submitted that it was the view of Social Work England that removal from the social work register was the only proportionate and appropriate sanction.

137. The panel sought Ms Pitters view as to whether Social Work England considered that there were any mitigating factors present. The panel wished to be as fair as possible to Mr Magaya and acknowledged that he was not present to put forward his view as to the existence of any mitigating circumstances. It was therefore important that the panel considered this as part of their deliberations. Ms Pitters indicated that in terms of mitigations Mr Magaya had made some limited admissions in terms of his use of language. He had participated in the initial stages of the process, and he was a relatively junior social worker who had not been subject to any regulatory processes previously. Mr Magaya himself had put forward as part of his case that he had struggled with managing cultural difference between Zimbabwe and the UK. Ms Pitters submitted it was a matter for the panel to determine what mitigation they considered was evidenced and relevant in the case.

Legal advice on sanctions

138. The panel heard and accepted legal advice that in reaching its determination the panel should consider Social Work England's Impairment and Sanctions Guidance (19th December 2022). It was advised to consider the sanctions in ascending order of severity, applying the least restrictive sanction necessary to protect the public, maintain confidence in the profession and uphold and declare proper professional standards. The panel must act proportionately, consider any aggravating and mitigating factors and be mindful of the public interest and that the primary purpose of any sanction is the protection of the public. The panel should balance the interests of Mr Magaya with the need to protect the public and public confidence in the profession.

Panel determination on sanction

139. The panel applied the guidance and approached the decision incrementally, identifying the least restrictive outcome that would sufficiently protect the public and uphold confidence in the profession. The panel took account of the overarching objectives of public protection, the maintenance of public confidence, and the declaration and upholding of proper professional standards. It also had regard to proportionality, weighing the impact of any sanction on Mr Magaya against the need to protect the public and the wider public interest.
140. The panel began by identifying and weighing relevant aggravating and mitigating factors. It noted that paragraphs 81 and 82 of the guidance provide non-exhaustive lists of potential mitigating and aggravating features. The panel noted the absence of any prior adverse regulatory history and that Mr Magaya had made limited factual admissions at earlier stages. These included an acknowledgement that he had used the word "beautiful" when talking to Service User K and her family and that he had talked about a "double date", albeit without any acknowledgement of the impropriety of this. However, these admissions were narrow in scope, and carried very limited weight given the continued denial of the most serious allegation involving attempting to kiss Service User K. The panel noted the lack of genuine reflection, and the tendency to minimise or deflect responsibility and weighed this when considering the identified mitigation.
141. The panel acknowledged that Mr Magaya was both a newly qualified social worker and also that he had limited experience of undertaking the statutory role of a social worker. The panel had noted that Mr Magaya's

"100 day placement had primarily been undertaken remotely rather than in the office due to covid restrictions."

142. The panel considered if this might amount to mitigating features. The panel considered that had the allegations only been in relation to the use of language or practice competence issues this might be a factor which was relevant. However, the allegations also related to a sexually motivated incident which was attitudinal as opposed to a matter of professional inexperience or competence. The panel also noted the evidence

of Ms Okuna which confirmed that any social worker, newly qualified or otherwise, would have the training and knowledge to know that such sexually motivated conduct was unacceptable. The panel did not identify any other mitigating features.

143. The panel went on to consider the aggravating features evident in the circumstances of the case. The facts involved two visits, including a sexually motivated act towards a service user for whom Mr Magaya had professional responsibility, constituting an abuse of trust within a context of clear power imbalance. The service user was vulnerable and anxious about the potential for social services to remove her child. The actions occurred within Service User K's own home and resulted in her losing a sense of safety in that environment. On the day that Mr Magaya grabbed her and tried to kiss her, Service User K felt it necessary to stay elsewhere that night as she was fearful Mr Magaya would return. The misconduct reflected attitudinal failings rather than an isolated lapse. The aggravating features therefore included repetition and a pattern of behaviour, a lack of insight or remorse, a lack of remediation, and the harm or risk of harm to people using social work services. The panel also noted that Mr Magaya spoke disrespectfully about Service User K referring to her as "*this dirty woman*" (albeit that it was unclear what he specifically meant by "*dirty*") which indicated to the panel that Mr Magaya was blaming Service User K for what had happened rather than accepting responsibility. Additionally, the panel had made findings in relation to Mr Magaya breaching multiple different professional standards.
144. The panel considered and rejected lesser sanctions in ascending order of seriousness. No further action, or an advice or warning order, would be manifestly insufficient considering the gravity and attitudinal nature of the misconduct and would fail to address the ongoing risk to public protection and the strong public interest in marking the seriousness of the behaviour. The panel considered it would be wholly inappropriate for the Mr Magaya to practice without restriction given the nature of the findings against him.
145. Conditions of practice were considered inappropriate and unworkable. The concerns were not discrete competence or health issues amenable to supervision or retraining, but arose from fundamental breaches of professional boundaries, and a misuse of Mr Magaya's professional position. In the absence of engagement, insight, or a credible remediation plan, the panel could not frame conditions that would be effective, measurable, workable or sufficient to protect the public and maintain confidence.
146. In practical terms the panel did not consider that Mr Magaya could safely engage with service users without direct and constant supervision which would be entirely impractical and unworkable. Conditions of Practice would also require confidence that Mr Magaya would cooperate with these. Given his disengagement from the process there was no confidence that this would be the case. The fact that Mr Magaya was on the DBS banned list indefinitely for working with both children and adults underscored that it would not be possible for workable conditions of practice to be put in place. In addition, the panel took account of the guidance at 119 to the effect that conditions are unlikely to be appropriate in cases involving sexual misconduct and abuses of trust.

The panel further concluded that a conditions of practice order would, in any event, be insufficient to mark the seriousness of what had occurred.

147. The panel then considered suspension. The panel noted paragraphs 136 onwards of the guidance. Suspension is a serious and restrictive sanction but is ordinarily reserved for cases where there is a realistic prospect of remediation within a defined period and where insight is developing. In this case, elements of the misconduct lay at the more serious end, involving sexual misconduct towards a service user and abuse of position and trust.
148. The panel considered whether there was any evidence of developing insight or remediation. The panel noted that Mr Magaya did appear to have thought about the situation in which he found himself and consider how it could have been avoided. His rationale however seemed to provide more evidence of his lack of insight and remediation. Within his undated submissions he states:

“On reflection, I could have asked a colleague to accompany me on this visit than blindly walking into a trap”

He goes on to refer to himself in the following terms:

“I feel that my protective nature has resulted in a martyrdom which I am suffering now. If only I had prioritised myself as number one, then I would not be in this emotional trauma and sufferation.”

The panel considered that Mr Magaya portraying himself as the victim or martyr in the situation failed to demonstrate insight into or ownership of his actions. The panel did recognise that given that Mr Magaya was not currently involved in social work and given his inclusion on the DBS barred list that it may be more difficult for him to demonstrate remediation. However very little evidence had been provided of any remediation or of any willingness on his part to engage in this. The panel noted that Mr Magaya was no longer residing in the country and had made clear that he did not intend to practice social work in the future and that he had applied to be removed from the social work register. He had indicated that he was pursuing an alternative career.

149. The panel concluded that a period of suspension would not be sufficient to protect the public or to maintain public confidence and would not adequately mark the gravity of the misconduct or the attitudinal failings identified.
150. Having rejected all lesser options, the panel determined that a removal order was necessary and proportionate. Removal was required in accordance with paragraph 148 of the guidance to protect the public, to uphold and declare proper professional standards, and to maintain confidence in the profession, particularly given the combination of abuse of trust and vulnerability of the service user. The panel further noted that at paragraph 149 of the guidance that sexual misconduct was one of the factors which may mean removal was necessary. The panel also noted the guidance at paragraphs 167-169 in relation to sexual misconduct and the rationale as to why this

was viewed so seriously, particularly regarding the inherent power imbalance and abuse of trust. The panel recognised the impact that removal would have on Mr Magaya; however, the seriousness and attitudinal nature of the misconduct, the absence of insight or remediation, and the ongoing risk meant that no lesser sanction would suffice.

151. In light of the seriousness of the misconduct and the ongoing risk Mr Magaya presents, the panel determined that removal was the only sanction capable of fulfilling the regulatory objectives. Subject to any appeal, the effect of this order is that Mr Magaya will no longer be entitled to practise as a social worker.
152. The panel therefore directed that Mr Tapiwa Magaya's name, registration number [SW135210], be removed from the register of social workers in England.

Social work England submissions in relation to an interim order application

153. Ms Pitters confirmed that there was a current interim suspension order in place last renewed in October 2025 but it in the absence of Mr Magaya it was not proposed to apply to revoke that order during the hearing. Nonetheless, Ms Pitters made an application for a concurrent interim suspension order for 18 months to cover the appeal period before the final order of removal becomes effective.

Legal Advice in relation to an interim order application

154. The panel heard and accepted the advice of the legal adviser on its power to make an interim order under paragraph 11(1)(b) of Schedule 2 of the Social Workers Regulations 2018. The adjudicators may make an interim order where they consider it necessary for (either of the following):
 - the protection of the public
 - the best interests of the social worker

The order should be such as is necessary and proportionate.

Panel Determination in relation to an interim order application

155. The panel noted that it would be Social Work England's intention to allow the current order to lapse and for a new interim order to exist in its place.
156. The panel turned its consideration to the application for a concurrent interim order. The panel considered paragraph 207 of the guidance, which states: "*An interim order may be necessary where the adjudicators have decided that a final order is required, which restricts or removes the ability for the social worker to practise... without an interim order, the social worker will be able to practise unrestricted until the order takes effect. This goes against our overarching objective of public protection.*"

157. The panel was mindful of its earlier findings and considered that it would be wholly incompatible with the seriousness of those findings not to impose an interim order which could cover the period of any appeal. The panel had found Mr Magaya's misconduct to be serious, involving breaches of multiple standards and with an ongoing risk of repetition and harm. In those circumstances, allowing him to practise unrestricted during the appeal period would present an unacceptable risk to the public and would undermine public confidence in the profession and the regulatory process.
158. The panel concluded that an interim suspension order is necessary and proportionate to protect the public, to maintain confidence in the profession, and to uphold proper professional standards of conduct and behaviour. This concurrent order will come to an end upon the expiry of the appeal period, unless an appeal is lodged with the High Court. If no appeal is filed, the final order of removal from the register will take effect at that point.
159. The panel therefore made an interim suspension order for a period of 18 months.
160. Before leaving this matter, the panel should comment on the age of the case. The facts of this case date back to July 2021, 4 ½ years ago. The police and CPS involvement was concluded in early 2022 and we understand that Social Work England spent time trying to maintain the engagement of Service User K and Person 1. However, delays have consequences: witnesses and social workers may disengage from the regulatory process, and also in terms of possibly making it harder for fair and appropriate decisions to be made. The panel understands that previously resource constraints impacted on Social Work England in recent years, but now with additional resources Social Work England is working hard to conclude the older cases. This can only be welcomed.

Right of appeal:

161. 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:
1. 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.
 2. the decision of the regulator on review of an interim order, or a final order, other than a decision to revoke the order.

162. 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.
163. 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.
164. 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:

165. 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
166. 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.
- 167.

The Professional Standards Authority:

168. 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>.