

Social worker: Ophelia
Sommerville

Registration number: SW112481

Fitness to Practise

Final Hearing

Dates of hearing: 17 March 2026 to 20 March 2026

Hearing venue: Remote hearing

Hearing outcome:

Fitness to practise impaired, warning order (1 year)

Introduction and attendees:

1. This is a hearing held under Part 5 of The Social Workers Regulations 2018 (as amended) (“the regulations”).
2. Ms Sommerville did not attend and was not represented.
3. Social Work England was represented by Ms Stevens case presenter instructed by Capsticks LLP.
4. The panel of adjudicators conducting this hearing (hereafter “the panel”) and the other people involved in it were as follows:

Adjudicators	Role
Jill Crawford	Chair
Sarah Redmond	Social worker adjudicator
Angela Duxbury	Lay adjudicator

Hearings team/Legal adviser	Role
Jo Cooper	Hearings officer
Cat Conway/Ellie Roberts	Hearings support officer
Stacey Patel	Legal adviser

Service of notice:

5. The panel was informed by Ms Stevens that notice of this hearing was sent to Ms Sommerville by email to an address provided by the social worker (namely their registered address as it appears on the Social Work England register). Ms Stevens submitted that the notice of this hearing had been duly served.
6. The panel 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 5th February 2026 and addressed to Ms Sommerville at their email address which they provided to Social Work England;
 - An extract from the Social Work England Register detailing Ms Sommerville’s registered address;
 - A copy of a signed statement of service, on behalf of Social Work England, confirming that on 5th February 2026 the writer sent by email to Ms Sommerville at the address referred to above the notice of hearing and related documents
7. The panel accepted the advice of the legal adviser in relation to service of notice. This included reference to Rules 14, 15, 44 and 45 of Social Work England’s Fitness to Practise Rules 2019 (as amended) (the “FTP Rules 2019”).

8. Having had regard to all of the information before it in relation to the service of notice, the panel was satisfied that notice of this hearing had been served on Ms Sommerville in accordance with Rules 44 and 45 of the FTP Rules 2019.

Proceeding in the absence of the social worker:

9. The panel heard the submissions of Ms Stevens on behalf of Social Work England. Ms Stevens submitted that:
 - a. notice of this hearing had been duly served;
 - b. no application for an adjournment had been made by Ms Sommerville and as such there was no guarantee that adjourning today's proceedings would secure their attendance;
 - c. Ms Sommerville has voluntarily absented herself; and
 - d. Given the date of the allegations, there is a public interest in the matter proceeding.
10. Ms Stevens therefore invited the panel to proceed in the interests of justice and the expeditious disposal of this hearing.
11. 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'.
12. The panel considered all of the information before it, together with the submissions made by Ms Stevens on behalf of Social Work England. The panel considered that:
 - a. Ms Sommerville was served with the notice of today's hearing in which it set out that the hearing may take place in her absence;
 - b. Ms Sommerville has not requested to adjourn the hearing;
 - c. Ms Sommerville was in previous communications with Social Work England. The panel noted that in 2023, she had enquired if the final hearing would be listed in 2024. In addition, there is a further email from Ms Sommerville in September 2025 in which she stated:

"I receive the password via messages to access the email attachments. I haven't opened the attachments as yet but if I have any issues, I'll let you know."

The panel concluded these demonstrate that Ms Sommerville anticipated the final hearing was going ahead;

- d. Given the length of time passed since the allegations (nearly seven years), it is considered that it is in Ms Sommerville’s own interest to proceed with the final hearing; and
- e. There is a public interest in proceeding with the final hearing given the length of time passed and the attendance of witnesses.

13. The panel therefore concluded that Ms Sommerville had chosen voluntarily to absent themselves. The panel had no reason to believe that an adjournment would result in Ms Sommerville’s attendance. Having weighed the interests of Ms Sommerville in regard to their attendance at the hearing with those of Social Work England and the public interest in an expeditious disposal of this hearing, the panel determined to proceed in Ms Sommerville’s absence.

Preliminary matters:

- 14. Ms Stevens applied for the hearing to take place partly in private if matters arose that could lead to the identification of Service User A,
- 15. The panel heard and accepted the advice of the legal adviser who referred to rules 37 and 38 of Social Work England’s Fitness to Practise rules 2019 (as amended) (“the rules”).
- 16. The panel noted that in accordance with rule 37, Social Work England hearings usually take place in public, subject to the discretion to depart from that principle provided for in rules 38(a) and (b). Given that it may be possible for Service User A to be identified, the panel was satisfied that the ground in rule 38(b)(i) applied and determined that the hearing should be held in private if evidence arose that related to Service User A’s identity. This is to protect the confidentiality of people with involvement of social care. Otherwise, the hearing would proceed in public.

Allegations:

17. The allegations against Ms Sommerville were as follows:

The allegations arising out of the regulatory concerns referred by the Case Examiners on 21 January 2022 are:

Whilst registered as a social worker and employed by the London Borough of Lambeth:

On, or around, 22 May 2019, you accessed the records of Service User A without professional reason to do so.

Between February 2017 and June 2019, you failed to declare a conflict of interests in respect of Service User A to your employer.

The matters outlined in allegations 1 – 2 amount to the statutory ground of misconduct.

Your fitness to practise is impaired by reason of your misconduct.

Admissions:

18. Case management directions were disclosed to Ms Sommerville on 3rd July 2023. In line with Direction 2, Ms Sommerville was required to indicate by 15th December 2025 which parts of the statement of case are admitted and which remain in dispute. To date no response has been received.
19. In line with Rule 32c(i)(a) of the Rules, the panel then went on to determine the disputed facts.

Summary of evidence:

20. On 31 December 2019, Social Work England received a referral from the London Borough of Lambeth (“the Council”) regarding the Respondent social worker, Ophelia Sommerville (“the Social Worker”). The social worker was employed as a social worker within the Children with Disabilities Team by the council.
21. [PRIVATE]. An internal investigation was conducted by the council and the social worker resigned on 17 December 2019.
22. Social Work England relied on two live witnesses:
 - Mr Michael O’Reilly, Counter Fraud Manager;
 - Mr Admire Machaya, Team Manager, Child Protection Reviewing Team.
23. Social Work England also relied on the written evidence and exhibits of Karen Milne, Advanced Social Work Practitioner, Sharon Hamilton, Senior Social Worker and Lianne Quarry, Application Development Specialist.
24. As Ms Sommerville was not present, the witnesses were not cross examined but the panel was mindful that in the absence of Ms Sommerville it should play an inquisitorial role and explore any apparent weaknesses there might be in Social Work England’s case. The panel therefore asked questions of clarification as it deemed appropriate.

Michael O’Reilly

25. Mr O’Reilly adopted his witness statement dated 29 August 2025 and gave oral evidence. He stated that in 2019 he was the Counter Fraud Manager for Lambeth Council although his role has now expanded. As part of his role, he investigates staff misconduct. Mr O’Reilly continued to say that references to “locking files” in his statement meant securing files on One Drive but he could not say with certainty. He also explained that he does not have access to the Mosaic Secure System (where social work case files are kept) as the data contained there is considered sensitive.
26. Mr O’Reilly stated that in 2017, staff were only required to sign a declaration of interest upon joining the council, however this has since changed to an annual process. When he checked Ms Sommerville’s HR file, there was only one declaration there from 2017, but

the original cannot be produced before the panel as it is not there anymore. This could be for a variety of reasons, such as being misplaced. In panel questioning, Mr O'Reilly stated that annual declarations of interest were likely introduced for assurance reasons, but he could not say for sure. Regardless, there is an ongoing duty on any social worker to declare any interest and if they are unsure, they should speak to a manager.

27. When asked to clarify the difference between a declaration of interest and the code of conduct, Mr O'Reilly explained that they are both part of one document, however both parts require separate signatures. The declaration is a requirement to declare anything that may have an impact on the role, such as a voluntary role at another council or having family in the borough. The code of conduct is the disciplinary code that all staff are to adhere to.
28. Mr O'Reilly further stated that he did not know Ms Sommerville prior to receiving an email from Valerie Brown explaining that the social worker had reviewed data they were not entitled to look at and Ms Brown wanted to know if this data had been shared. Mr O'Reilly decided to investigate this matter as this can amount to staff misconduct which is within his remit.

Admire Machaya

29. Mr Machaya adopted his witness statement dated 22 May 2025 and gave live evidence. He stated that he is currently a Team Manager in the Child Protection Reviewing Team in the Quality Assurance Department at London Borough of Lambeth.
30. Mr Machaya confirmed there a policy in place regarding staff declarations, and the declaration of interest would be given at the start of any employment. He further stated that if anything changed over the course of employment, staff would need to inform the council as there is an ongoing duty to declare any interests.
31. Mr Machaya confirmed the wording that is on the declaration of interest and explained that the code of conduct sets out expectations of how staff are to conduct themselves, including where a conflict of interest may arise. Mr Machaya also confirmed that all the documents he exhibited were in place at the time Ms Sommerville joined the council.

Ms Sommerville

32. Although Ms Sommerville did not give evidence, she did provide a response to Social Work England on 25th February 2020 and 25th June 2021. She accepted accessing the files and stated that she did so to check if a complaint has been recorded on the system. Ms Sommerville accepted that, on reflection, this was not appropriate but that the outcome was positive. She stated she was not aware that Service User A was known to the council when she joined in 2017 and she was not aware of any ongoing obligation to provide further declarations of interest.

Legal Advice

33. The panel heard and accepted the advice of the legal adviser in respect of the approach to take in determining findings of facts and the burden and standard of proof. The burden of proof rests on Social Work England and it is for Social Work England to prove the allegations. The legal adviser also provided advice on the specific wording of allegation 2, namely “failed to” and furthermore, on the meaning of “between”.

Finding and reasons on facts:

On, or around, 22 May 2019, you accessed the records of Service User A without professional reason to do so.

34. The panel assessed this paragraph in two parts. First, it considered if Ms Sommerville accessed Service User A’s records. In doing so, it had regard to the Lambeth Council’s internal investigation dated 24th July 2019. When asked; “*What did you do when you looked on Mosaic?*” Ms Sommerville replied, “*I just checked to see if there was a complaint logged on the file*”. In addition, in her response to Social Work England dated 25th February 2020, Ms Sommerville wrote: “*I did access the service user –[PRIVATE] record, however, it was not on request*”. In addition, the panel also had sight of an audit carried out on Mosaic which logged Ms Sommerville accessing the records on 22nd May 2019.
35. The panel therefore concluded that Ms Sommerville did access Service User A’s record by virtue of her own earlier admissions and the documentary evidence of the audit findings.
36. The panel continued to determine if there was a professional reason for Ms Sommerville to access the records. In her response to Social Work England, Ms Sommerville stated:
- “The reason for my action was to try to represent my employer by trying to be of some assistant with providing her with the necessary contacts to chase up her complaint as there appeared to be some discrepancies in Lambeth’s procedures.”*
37. The panel noted that Ms Sommerville had no professional relationship with Service User A. She was working in a different team at the time and was not part of the team that was supporting Service User A. Ms Sommerville did not communicate with her employer or the social workers involved in the support of Service User A about this matter or about her actions in accessing the file, as would reasonably be expected if she believed she was acting in a professional capacity with professional reason.
38. The panel determined that Ms Sommerville was not in the framework of supervision for Service User A, [PRIVATE] and therefore she had no professional reason to access the files.
39. The panel therefore concluded that, on the balance of probabilities, **this is found proved.**

Between February 2017 and June 2019, you failed to declare a conflict of interests in respect of Service User A to your employer

40. The panel first considered if Social Work England had demonstrated there was a positive duty to declare any conflict of interests and if Ms Sommerville was aware of this requirement. It took into account Lambeth Council's code of conduct, dated 21st February 2017 (which was still in place in 2019) and in particular, the panel noted paragraph 7.6 where it states:

"You must declare any activity, relationship or other personal interests, whether financial or non-financial, where there may be a conflict of interest between their Council duties and your private interests. You are also required to declare personal or business interests which may influence your judgement or may be perceived to."

41. The panel also heard oral evidence from Mr Machaya that this code was in place at the time Ms Sommerville joined the council and all new starters were required to sign it.

42. The panel also had sight of a copy of the declaration of interest. While the panel noted that the signed original is not before them, it took account of Mr O'Reilly's evidence that he had seen it when he originally looked at Ms Sommerville's HR record. Further, in her response of 25 June 2021 to Social Work England, Ms Sommerville accepts that she signed the form at the start of her employment in February 2017. The form states:

"employees are required to declare any activity, relationship or connection that may result in a conflict of interest arising in their official capacity and may therefore compromise their position" and "failure to declare the above at any time during the course of your employment may result in disciplinary action being taken"

43. The panel considered Ms Sommerville's reply in her response to Social Work England (dated 25th June 2021) that:

"I was not aware of any policy or procedure regarding the frequency of declaration. If I had been told during my employment, I would have followed procedure".

However, the panel continued to note that above the signature line on the declaration, it states:

"I understand that it is my responsibility to complete a new declaration if any of the above information changes or I become aware of a potential conflict which arises".

44. Taking all the above into account, the panel were satisfied that there was a positive duty for Ms Sommerville to declare any conflict of interests and that, at the very least, she ought to be aware of them as she signed both the code of conduct and the declaration of interests.

45. The panel went on to consider if Ms Sommerville then did in fact fail to declare any conflict. The panel noted the timeframe as specified in the charges, and first, concluded that there was no evidence put before them to demonstrate Ms Sommerville was aware that Service User A was known to the council at the time of joining. [PRIVATE] It therefore was not satisfied that Ms Sommerville was aware of the conflict of interest when she signed the declaration in February 2017.

46. [PRIVATE]

47. Taking all of the above into account, the panel **found, on the balance of probabilities, Allegation 2 proved in the terms set out above.**

Finding and reasons on grounds

Submissions

48. The panel heard submissions from Ms Stevens why Social Work England says the facts found proved amount to the statutory ground of misconduct and on the issue of impairment. It decided on each stage separately and each stage is dealt with under separate headings below. Ms Stevens referred the panel to the 'Statement of Case' and submitted that whether the facts found proved is a matter of judgement for the panel, rather than a matter of proof.

49. Ms Stevens referred the panel to the case of *Roylance v General Medical Council (No 2) [2000] 1 AC 311* and informed the panel that they needed to refer to both *HCPC Standards of Conduct, Performance and Ethics (2016)* and *HCPC Standards of Proficiency (January 2017)*. Ms Stevens submitted that Ms Sommerville was in breach of the following standards:

HCPC Standards of Conduct, Performance and Ethics (2016)

5.1 You must treat information about service users as confidential.

9.1 You must make sure that your conduct justifies the public's trust and confidence in you and your profession.

9.4 You must declare issues that might create conflicts of interest and make sure that they do not influence your judgment.

HCPC Standards of Proficiency (January 2017)

2.5 [You must] be able to exercise authority as a social worker within the appropriate legal and ethical frameworks and boundaries.

3.4 [You must] be able to establish and maintain personal and professional boundaries.

7.1 [You must] be able to understand and explain the limits of confidentiality.

7.3 [You must] understand the principles of information governance and be aware of the safe and effective use of health and social care information.

50. Ms Stevens submitted that Ms Sommerville's conduct in this case marks a significant departure from the professional standards which would have been expected. Accessing confidential information without reason and/or authority has the potential to undermine the profession. [PRIVATE].

Legal Advice

51. The panel heard and accepted legal advice from the legal adviser on the issue of misconduct. The legal adviser referred to the 'Impairment and Sanctions Guidance' dated 19 December 2022 which provide guidance in relation to misconduct. The legal advisor also referred to *Meadow v GMC [2007]* as well as *Roylance v GMC*.

Decision

52. The panel at all times had in mind the overriding objective of Social Work England which includes its duty to protect the public, promote and maintain public confidence in social workers in England and to promote and maintain proper professional standards for social workers in England. The panel had regard to the 'Social Work England Impairment and Sanctions guidance'. It had regard to both HCPC Standards of Conduct, Performance and Ethics (2016) and HCPC Standards of Proficiency (2017). and bore in mind that a departure from the standards does not necessarily constitute misconduct.

53. The panel first considered whether Ms Sommerville had breached the standards expected of her at the time of these events. Applying HCPC Standards of Conduct, Performance and Ethics (2016) the panel found standards 5.1, 9.1 and 9.4 breached. Applying the HCPC Standards of Proficiency (2017), the panel found the following standards breached: 2.5, 3.4, 7.1 and 7.3. It noted and accepted the legal advice that breaches of the code do not necessarily amount to misconduct and that for any breach to amount to misconduct, it must be serious either individually or collectively.

54. The panel then carefully considered whether Ms Somerville's failure to declare her association with Service User A and her subsequent access of that service user's records amount to the statutory ground of misconduct. The panel concluded that Ms Somerville's conduct and behaviour fell far below the standards expected of a registered social worker. Her conduct amounts to failings of basic tenets of the social work profession, namely respecting confidentiality of service users, transparently declaring any conflicts of interest that arise and carefully observing boundaries between personal and professional matters. The panel determined that Ms Sommerville's conduct was in breach of multiple standards.

55. The panel decided that the conduct in the allegations amounted to serious misconduct. Ms Sommerville demonstrated a clear breach of confidentiality when she accessed a service user's records for personal reasons and she only had access to this information

by virtue of her profession. The standards are clear regarding expectations on maintaining confidentiality and transparency. Ms Sommerville's conduct breached the trust that service users place in social workers to respect their confidentiality, act transparently and access information only for legitimate professional reasons. This trust is key to the ability of social workers to support and protect service users, as without it service users may not be willing to share sensitive information and/or engage social services, resulting in associated risks. Ms Sommerville's conduct had the potential to create such risk for Service User A, although that risk does not appear to have materialised. Further and importantly, it has the potential to undermine more widely public and service user confidence in sharing confidential information and/or engage with social workers.

56. The panel considered this to be a serious departure from the standards expected of social workers. The panel considered that the facts found proved would be seen as far below what is expected by service users, members of the public and fellow practitioners and concluded that individually and cumulatively, they amount to misconduct.

Finding and reasons on current impairment

Submissions

57. Ms Stevens submitted that a finding of impairment was a matter of judgement for the panel. She referred to the Statement of Case and to the case of *Cohen v GMC [2008] EWHC 581 [Admin]*.

58. Ms Stevens submitted that there is no personal impairment as Ms Somerville has shown some insight into her conduct, reflected on her actions and shown remorse.

59. However, Ms Stevens submitted that Ms Sommerville is impaired on the public component. By accessing Service User A's file without professional reason to do may have the potential to place Service User A at risk of harm by undermining the professional relationship between the service user and the council. Whilst Ms Sommerville accessed the records on one date, her review took over an hour and involved accessing 19 record entries in circumstances where she had no professional reason to access the records. Additionally, accessing confidential information and failing to declare a conflict of interests has the potential to undermine public trust and confidence in the profession.

60. Ms Stevens stated that given the findings, the public would be shocked if a finding of impairment was not made in this case.

Legal Advice

61. The panel heard and accepted the advice of the legal adviser in relation to impairment. The panel heard advice on the case of *Cohen v GMC* as well as *CHRE v (1) NMC & (2) Grant [2011] EWHC 927 (Admin)*. The legal adviser also directed the panel to have careful regard to the Social Work England 'Impairment and Sanctions' guidance updated 19 December 2022, which includes guidance on assessing impairment.

Decision

62. The panel followed Social Work England's 'Guidance on Impairment' and first asked itself to what extent did Ms Sommerville actions harm or pose a risk of harm to the public. The panel first determined that no actual harm was caused to Service User A and furthermore, there was evidence which indicates Ms Sommerville has not forwarded the sensitive information by email to a third party. However, the panel did find there was a limited risk of harm to Service User A as accessing unauthorised files had the potential to undermine the relationship between the social work team working with Service User A [PRIVATE].
63. The panel continued to consider if there was a risk of repetition. The panel determined there was no evidence that the Ms Sommerville had repeated her actions in the last 7 years. The panel concluded that this was an isolated incident which occurred early in her career and there was evidence that she continued to work with the council after this event occurred. The panel also noted that Ms Somerville had no previous history for them to take into account.
64. Concerning insight, the panel placed considerable weight on Ms Sommerville's responses to Social Work England, particularly:

"Upon reflection, I realised that my choice of actions was not correct despite the positive outcome for the service user. I acknowledged and I have learnt from this experience that the correct procedure was to sought advice from my manager or colleagues, or proceed to speak directly with the family member's social worker to see how best to support the family.

At first instance, regarding the confidentiality concern, I apologised to my service manager (Justin Colman) and the Assistant Director (Michelle Pipper) regarding my action. They accepted my apology and I was allowed to continue practicing. I also had supervision with my service manager and line manager to reflect and talk through why I made my decision to access the file. This was good reflexive practice because it allowed me to reflect on my thought process, values and beliefs which plays a huge part in my decision making as a professional. I am at the early stage of my career and this process has contributed to my continuous learning and development. I have learnt to take time to think things through in all situations for future practice, of course to always seek advice for clarity and professional support."

65. The panel concluded, in relation to accessing the files, that Ms Sommerville recognises what went wrong and accepts her role and responsibility in relation to the failings. Ms Sommerville has taken the opportunity to reflect on what happened and provide insight as to how her actions impact on confidence in the profession. Ms Sommerville has addressed how she might act or react differently if the same circumstances were to happen again. However, concerning failing to declare a conflict on interest, the panel find that Ms Sommerville's insight was not fully formed. She stated that:

"I was not aware of any policy or procedure regarding the frequency of declaration. If I had been told during my employment, I would have followed procedure"

66. The panel considered that a social worker should be fully aware of the importance of declaring immediately any conflict between personal matters and professional obligations, particularly before acting upon that personal interest, regardless of if they had not been directed to specific policy. Further, the panel noted the ongoing duty to declare any conflict of interest is clearly set out in the declaration of interest form which Ms Sommerville accepts she signed on joining the council. Notwithstanding this observation, the panel noted that this occurred early in Ms Sommerville's career and she has taken full accountability for accessing the records inappropriately. It considered that, in the light of these events, Ms Sommerville will now be alert to declare about any conflict of interest immediately.

67. In considering if the conduct was capable of remediation, the panel concluded that it was, particularly as there was no evidence of any deep-seated attitudinal issues. In fact, Ms Sommerville continued to work at the same council after these events. Her line manager at the time also provided a character reference for her disciplinary hearing. In that, he wrote:

“Ophelia has really excelled in CWD and was a very strong AYSE who has consistently performed to high standard throughout her time to CWD..... I am also confident from knowing her that she has the capacity to learn and reflect, indeed it is a strength of hers, and as such I am certain that she will be able to put this behind her. “

68. Taking all of the above into account, the panel therefore concluded that Ms Sommerville's misconduct was unlikely to be repeated and therefore concluded that her fitness to practise is not currently personally impaired on the grounds of her misconduct.

69. The panel next considered whether a finding of current impairment was necessary in the public interest. The panel was mindful that the public interest encompassed not only public protection but also the declaring and upholding of proper standards of conduct and behaviour as well as the maintenance of public confidence in the profession. It took into account the guidance in the *NMC v Grant* case at paragraph 74:-

‘In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.’

70. The panel considered its findings in relation to misconduct. The panel took into account that social workers hold privileged positions of trust. It is essential to the effective delivery of social work that the public can trust social workers to protect confidentiality and act transparently. The panel considered that members of the public would be shocked if the regulator were not to mark the seriousness of Ms Sommerville's misconduct, given the lack of transparency and accessing records for personal reasons, with a finding of current impairment on public interest grounds. The panel considered

that not to make a finding of current impairment of fitness to practise in relation to those matters, given the multiple breaches of the standards, would undermine public trust and confidence in the profession, with associated detrimental effects to social worker's ability to provide effective support and protection to members of the public. The panel considered not to make a finding of current impairment would also fail to uphold and declare proper professional standards.

71. The panel therefore decided on the public interest element of impairment that Ms Sommerville's fitness to practise is currently impaired.

Submissions and legal advice on sanction:

72. Ms Stevens noted the panel's finding that Ms Sommerville's fitness to practise was impaired on public interest grounds and directed the panel to Social Work England's 'Impairment and sanctions guidance'. She submitted that the panel should consider the least restrictive option to protect the public interest.

73. Ms Stevens submitted to the panel that the mitigating factors in the case of Ms Sommerville included evidence of remorse, insight, remediation, lack of repetition and no previous fitness to practise history.

74. Ms Stevens submitted that the aggravating factor was that Ms Sommerville breached one of the basic tenets of the profession by not maintaining confidentiality.

75. Ms Stevens set out the available sanctions in the circumstances of this case to the panel. She submitted that in turning to sanctions the panel must begin with the least restrictive sanction and move upwards.

76. Ms Stevens submitted that the panel could take no further action, but this is rare where a panel makes a finding of impairment though this could be possible in cases where the finding of impairment itself is enough to protect the public or address the public interest.

77. Ms Stevens submitted that the panel could consider an outcome of advice or warning order. Ms Stevens took the panel through the sanctions guidance and submitted that a warning was appropriate as it would be disproportionate to give a restrictive sanction in the circumstances of this case. Ms Stevens further submitted a warning order of 3 years was appropriate as Ms Sommerville had demonstrated insight, there was a low risk of repetition, and it was an isolated incident.

78. Ms Stevens submitted that a conditions of practice order would not be workable in Ms Sommerville's case and a suspension order would be disproportionate.

Legal Advice on sanction

79. The panel heard and accepted the advice of the legal adviser. The legal adviser reminded the panel that its overarching objective when determining sanction is to protect the health, safety and well-being of the public, to maintain public confidence in the profession, and to uphold proper professional standards. The legal adviser advised that sanctions are not intended to be punitive, though they may have that effect, and must be

directed to protecting the public and the wider public interest. The panel was further advised that it must apply the principle of proportionality, weighing the interests of the social worker against the public interest, and that any sanction imposed must be the minimum necessary to achieve the regulatory objectives and be consistent with the panel's earlier findings on impairment.

80. In addition, the panel was advised that it should identify aggravating and mitigating factors and consider each available sanction in ascending order of seriousness, having regard to the guidance. The legal adviser explained the range of outcomes available under the Social Workers Regulations 2018, including taking no action, advice, warnings, conditions of practice, suspension, and removal.

Decision and reasons on sanction:

81. When considering the question of sanction, the panel took into account Social Work England's 'Impairment and sanctions guidance'.

82. Having found that the facts proved amounted to misconduct and that Ms Sommerville's fitness to practise is currently impaired on public interest grounds, the panel turned to consider sanction. It applied the guidance and approached the decision incrementally, identifying the least restrictive outcome that would 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 standards. It also had regard to proportionality, weighing the impact of any sanction on Ms Sommerville against the wider public interest.

83. The panel began by identifying and weighing relevant aggravating and mitigating factors. The panel could not identify any aggravating factors given its findings on impairment.

84. The panel noted a number of mitigating factors in the case of Ms Sommerville's case:

- a. There was an absence of any prior adverse regulatory history;
- b. the events of the case relate to a time limited episode;
- c. Ms Somerville was relatively new to practice and received positive feedback in relation to her recently completed Assessed and Supported Year in Employment (ASYE)
- d. Ms Sommerville had expressed remorse;
- e. Ms Sommerville had made early admissions of the facts;
- f. Ms Sommerville has undertaken a course on data protection;
- g. Ms Sommerville had shown sufficient insight and remediation.

85. The panel first considered whether in taking no further action would be appropriate. It recognised this only occurs in exceptional circumstances and decided this would not be appropriate in this case as it would not mark the seriousness of the allegations.

86. The panel next considered whether Ms Somerville should be offered advice or a warning order. The panel considered that advice was not appropriate as the panel did not consider that the failings arose from a misunderstanding and the failings were multiple, leading to a finding of impairment on public interest grounds. The panel considered that a warning order is sufficient, proportionate and appropriate in this case for the following reasons:

- a. the episode was isolated;
- b. there is a low risk of repetition;
- c. the social worker has demonstrated insight;
- d. there are no outstanding public protection issues;
- e. there are no workable, appropriate or proportionate conditions of practice;
- f. a suspension order would be disproportionate.

87. It will mark Ms Sommerville's failures in a formal manner. The panel considered a warning is both necessary and sufficient to uphold public trust that social workers will act appropriately in relation to conflicts of interest and in relation to the privileged sensitive information available to them because of their professional status. It is also necessary and sufficient to uphold professional standards of confidentiality and transparency and remind social workers of the need to adhere to these standards to maintain public confidence.

88. In considering the length of the warning order, the panel determined that a period of 1 year was sufficient, as these matters occurred early in her career, was not at the higher end of seriousness, the significant passage of time since these events and that Ms Sommerville has demonstrated sufficient insight and remediation. It considered that a period of 3 or 5 years would be disproportionate, in all the circumstances, as this was not a case that had fallen only marginally short of requiring a restriction of practice.

89. The panel determined that a warning order of 1 year was appropriate in this case as this would serve to maintain public confidence and highlight the importance of professional standards.

Right of appeal

90. Under Paragraph 16(1)(a) of Schedule 2 of the regulations, the social worker may appeal to the High Court against the decision of adjudicators:

- a. the decision of adjudicators:
 - i. to make an interim order, other than an interim order made at the same time as a final order under Paragraph 11(1)(b),
 - ii. not to revoke or vary such an order,

iii. to make a final order.

b. the decision of the regulator on review of an interim order, or a final order, other than a decision to revoke the order.

91. 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.

92. 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.

93. 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:

94. 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

95. Under Rule 16(aa) of the rules a social worker requesting a review of a final order under Paragraph 15 of Schedule 2 must make the request within 28 days of the day on which they are notified of the order.

The Professional Standards Authority:

96. 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>.