

Social worker: Benjamin
Nunnerley
Registration number: SW128047
Fitness to Practise
Final Hearing

Date of hearing: 1 September 2026

Hearing venue: Remote hearing

Hearing outcome: Discontinuance application granted, fitness to practise not impaired, no further action

Introduction and attendees:

1. This is a hearing held under Part 5 of The Social Workers Regulations 2018 (as amended) (“the regulations”).
2. Mr Nunnerley attended and was represented by Mr Christopher Bealey.
3. Social Work England was represented by Ms Louisa Atkin, case presenter from 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
Barry Greene	Chair
Karen Biddle	Social worker adjudicator
Moriam Bartlett	Lay adjudicator

Hearings team/Legal adviser	Role
Ruby Wade	Hearings officer
Ryan Torr	Hearings support officer
Helen Potts	Legal adviser

Allegations:

5. The regulatory concerns referred by the Case Examiners on 30 March 2023 were:

Whilst registered as a social worker:

1. *A child in care, who was reported missing and who did not have consent to be at your home address, was located at your home address.*
2. *Drugs paraphernalia was observed to be present in your home.*
3. *You misled the police by saying that you were part of Child A’s care plan and/or that it was appropriate for him to be at your home, when this was not the case.*
4. *You allowed a child in care to stay at your home, knowing, or having reason to believe, the child would be deemed ‘missing’ from their home address, without alerting the appropriate authorities.*
5. *You allowed a child in care to stay at your home, without appropriate consent, during a period of national lockdown, when government restrictions were in place.*

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

Your fitness to practise is impaired as outlined at regulatory concerns 1, 2, 3, 4 and 5 by reason of misconduct.

Background:

6. The regulatory concerns regarding Mr Nunnerley arose in the context of his contact with a young person, Child A, who was age 15 at the time. Child A was a Looked After Child under the authority of Doncaster Children's Services Trust who had been placed at a Children's Home ("the Placement") in or around August 2020. Prior to moving to the Placement, Child A had gone missing from his previous placements on a number of occasions; there were concerns about the people with whom he was associating, and concerns about his use of drugs.
7. Mr Nunnerley had no involvement with Child A in a professional capacity. Child A became known to him sometime after October 2020 through Child A's girlfriend, Child M. At the relevant time, Mr Nunnerley was living in a house in multiple occupation in Preston ("the Address") with two housemates. Child M was best friends with the sister of one of Mr Nunnerley's housemates and would sometimes visit the Address with the housemate's sister and Child A. Child M's mother was also known to the Social Worker as they had previously worked together as Senior Care Assistants in a care home setting. Although Mr Nunnerley at some point became aware that Child A was in care, exactly when he became aware of this is unclear.
8. During February and early March 2021, Child A went missing from the Placement on a number of occasions. Staff at the Placement became aware that Child A was spending time at the Address; at the same time, they noted a deterioration in Child A's behaviour. Questions were raised as to why Child A was visiting the Address leading to a meeting of professionals on 10 March 2021.
9. It was understood that Mr Nunnerley was working in Lancashire and, therefore, Doncaster Children's Services Trust completed a referral to Lancashire County Council's Local Authority Designated Officer ("LADO") on 11 March 2021.
10. Child A is said to have told his then social worker that his purpose in visiting the Address was to walk the dog for a male who resided there. Child A had not reported any concerns about the male or anyone who resided at the Address.
11. On or around 12 March 2021, the Address was visited by social workers Heidi Collins and Caroline Hardy. Ms Hardy was Child A's previous allocated social worker and had recently handed over the case to Ms Collins. Ms Hardy and Ms Collins met Mr Nunnerley for the first time during this visit. He told them that he was a social worker but was not currently practising.
12. Mr Nunnerley confirmed to the two social workers that Child A attended the Address to walk his dog and that he would leave a spare key for Child A to enter the property to allow him to do so. The notes of the visit, which were prepared by Ms Collins, indicate

that Mr Nunnerley and one of his housemates agreed that they would not let Child A attend the Address from then on. There is no evidence to suggest that Mr Nunnerley allowed Child A into the Address after this visit.

13. A strategy meeting was held by Doncaster Children's Services Trust on 18 March 2021 to discuss concerns about Child A going missing and the time he was spending at the Address. Donna Green, Local Authority Designated Officer ("LADO") within Lancashire County Council attended the strategy meeting. It was reported that Mr Nunnerley had previously told police officers that he was part of Child A's care plan although he had no professional relationship with Child A.
14. At the strategy meeting, Ms Collins reported seeing what she understood at the time to be drug paraphernalia through the window of the Address upon her arrival with Ms Hardy on 12 March 2021. She further reported a smell of cannabis at the Address.
15. On 21 June 2021, Ms Donna Green, LADO at Lancashire County Council, referred Mr Nunnerley to Social Work England.
16. Following the completion of Social Work England's initial investigation, the matter was referred to the case examiners who considered the case on 30 March 2023 and determined that there was a reasonable prospect of the regulatory concerns being found proven, a realistic prospect that the concerns could amount to the statutory ground of misconduct, and a realistic prospect that Mr Nunnerley's fitness to practise could be found to be impaired.
17. Mr Nunnerley has consistently denied the regulatory concerns. He does not dispute that Child A was known to him, nor that he had attended the Address. He has explained the circumstances in which Child A became known to him, namely through Child A's relationship with Child M, and Child M's relationships with others who were known to him. He accepted, at an early stage, that Child A had attended the Address with Child M on occasions, and that he had permitted them to walk/look after his dog. He has explained that staff at the Placement were aware of this. He has stated that the only "unusual" time when Child A had attended the address was in connection with an incident where Child M had been bitten by her family dog; on that occasion, Child A was returned to the Placement by the police.
18. In his response for the case examiners on 28 February 2023, Mr Nunnerley stated that "[a]t no point did I ever believe or have reason to believe that [Child A] was missing from care". He goes on to say that, with respect to the incident where Child M was bitten by her family dog, Child A arrived at his house without his knowledge, having been contacted by Child M. Mr Nunnerley has stated that he told Child A he needed to cooperate with the police and return to his placement. He denies having ever suggested to the police that he was part of Child A's care plan and denies having any drug paraphernalia at the Address. With regard to the suggestion that Child A was allowed to stay at the Address in contravention of national lockdown requirements, Mr Nunnerley states that during lockdown restrictions, Child A and Child M "would sit in the front garden seating area / Canopy for a drink and a snack before being collected by carers or

going out into the local area”, and that “[a]ll Covid restrictions and guidance where [sic] followed at all times and both [Child A] and [Child M] where [sic] advised of the correct procedures to follow during the pandemic which they both appeared to understand and acknowledge.”

Discontinuance application:

Submissions on behalf of Social Work England

19. Social Work England’s submissions were set out in its written statement of case (discontinuance application) dated 27 July 2026. Social Work England applied to discontinue the case in its entirety against Mr Nunnerley under Rule 52 of Social Work England’s Fitness to Practise Rules 2019 (as amended) (“the FtP Rules”).
20. Rule 52 of the FtP Rules provides:
 52.
 - (1) *Where the regulator considers that new information available since the determination of the case examiners means that there is no longer a realistic prospect of a determination of impairment in relation to the case, the regulator may make an application for discontinuance of the case to be considered by the adjudicators.*
 - (2) *An application made under paragraph (1) must include details of the new information and a statement of case setting out why there is no longer a realistic prospect of a determination of impairment.*
 - (3) *Adjudicators must consider the application and if the adjudicators:*
 - (a) *decide that there is insufficient evidence to make a finding of impairment, make a decision that the social worker’s fitness to practise is not impaired, providing reasons for their decision, and impose an outcome in accordance with Paragraph 12(1) of Schedule 2;*
 - (b) *do not agree that there is insufficient evidence to make a finding of impairment, they may adjourn and give relevant directions as to the progression of the case to a fitness to practise hearing.*
21. Ms Atkin, on behalf of Social Work England submitted that, that there had been new information since the determination of the case examiners which meant that there was no longer a realistic prospect of proving the factual particulars, establishing the statutory ground of misconduct or of reaching a determination of impaired fitness to practise in relation to Mr Nunnerley.
22. Following the order in which the case examiners had addressed the regulatory concerns in their written decision, Ms Atkin first addressed the panel in relation to the

regulatory concerns 1, 4 and 5 which the case examiners had noted relied “on similar evidence”:

1. *A child in care, who was reported missing and who did not have consent to be at your home address, was located at your home address.*
4. *You allowed a child in care to stay at your home, knowing, or having reason to believe, the child would be deemed ‘missing’ from their home address, without alerting the appropriate authorities.*
5. *You allowed a child in care to stay at your home, without appropriate consent, during a period of national lockdown, when government restrictions were in place.*

23. Ms Atkin submitted that these regulatory concerns each required proof that Child A was at the Address on particular occasions. Regulatory concerns 1 and 4 additionally required proof that Child A had been either reported as missing or deemed missing on those occasions. Regulatory concerns 4 and 5 additionally required proof that Mr Nunnerley had allowed Child A to be at the Address; this would require evidence that Mr Nunnerley both knew Child A had stayed at the Address and had permitted it.

24. Ms Atkin highlighted that much of the evidence on which the case examiners had relied in reaching their decision was second or third-hand hearsay evidence, and in some cases anonymous hearsay. Since the case examiners had reached their decision, further enquiries had been made to explore, verify and/or identify the source of key information which was before the case examiners. This had included further enquiries of the police; Ms Donna Green, the LADO who referred the matter to Social Work England; the Placement; and the two social workers, Ms Heidi Collins and Ms Caroline Hardy, who met with Mr Nunnerley at the Address on 12 March 2021.

25. In terms of the police, Ms Atkin told the panel that further information had been obtained which confirmed that, whilst some concerns were logged around Child A’s presence at the Address in February and March 2021, there was either positive evidence that Mr Nunnerley was not present, or alternatively no evidence that Mr Nunnerley was present, on those occasions. Further, while Mr Nunnerley became aware at some point that Child A was in care, exactly when he became aware of this was unclear.

26. In terms of Ms Green, the initial referrer of the matter to Social Work England, one of her former colleagues and LADO Team Manager, Chris Turner, had confirmed that Ms Green had now retired and did not wish to be involved in these proceedings.

27. In relation to the Placement, Ms Atkin said that it had not been possible to identify who at the Placement had direct knowledge of Child A’s alleged visits to the Address, nor to explore the extent to which they could confirm or verify that Mr Nunnerley was present, and had consented to Child A being there on any particular occasion.

28. Furthermore, witness statements had now been obtained from Ms Collins and Ms Hardy. Ms Collins had now accepted that some of the information she provided in the strategy meeting on 18 March 2021 had been “speculative”. Ms Atkin submitted that there could be no realistic prospect of factual matters being found proved on the basis of speculative information.

29. Ms Atkins told the panel that Social Work England had undertaken an analysis of all the documentary evidence to determine if there was still a realistic prospect of the factual matters in regulatory concerns 1, 4 and 5 being found proved. She took the panel to a table, compiled from Child A’s case notes and information provided by Ms Hardy, of dates on which Child A was said to have gone missing. These included incidents unconnected with Mr Nunnerley or the Address. Further information had also been obtained from the police in relation to visits to the Property. The table included the following incidents:

- On 21/22 February 2021, Child A had left the Placement after midnight. Placement staff had gone to look for Child A at the Address but had not found him there. He was later found at Child M’s address the following morning.
- On 25/26 February, Child A is reported as having gone to the Address having told staff at the Placement where he was going and in circumstances where no concern had been raised about his going. There was no evidence that Mr Nunnerley was at the Address at the time or that he allowed Child A to stay there.
- On 1/2 March 2021, Child A was found at the Address by the police who assessed that he was fine and left him there. There is no evidence to indicate that Mr Nunnerley was there at the time.
- On 3 March 2021, Child A is reported to have informed the Placement that he was going to the Address. There is no evidence to indicate that Mr Nunnerley was there at the time.
- On 5 March 2021, Child A is reported to have informed the Placement that he was going to the Address. Notes indicate he was returned to the Placement by the police.
- On 6 March 2021, the Placement reported a concern about Child A staying at the Address. While there was some evidence from the Placement to suggest that Mr Nunnerley was present at the address on this occasion and that he and Child A were spoken to as part of a safe and well check, there was no evidence to show that Mr Nunnerley was informed or that knew Child A did not have consent to be there or would be deemed missing.
- On 9/10 March 2021, Child A was reported missing. The case notes contain no reference to Mr Nunnerley and/or the Address. Child A later reported that he had taken a train to Doncaster to see his mates.

30. Ms Atkin said that, in relation to the incident on 5 March 2021, this was the only incident where Child A was found at the Address, when Mr Nunnerley was also present, in circumstances where there was some evidence to indicate that Child A had been reported missing and did not have consent to be there. Ms Atkin said that Social Work England accepted that the information now available about this incident appeared to be consistent with Mr Nunnerley's account of an occasion when Child A turned up at the Address when Mr Nunnerley was preparing to take Child M to hospital, after she had been bitten by a dog. This ultimately resulted in Child A being taken back to the Placement by the police. Ms Atkin conceded on behalf of Social Work England that there was no evidence that Mr Nunnerley allowed Child A to stay at the Address on this occasion.
31. Ms Atkin, on behalf of Social Work England submitted that while there was some reference to Child A attending the Address in late February and early March, there was either positive evidence to show that Mr Nunnerley was not present, or no evidence to indicate whether he was present or not, in relation to each occasion other than the incidents on or around 5 and/or 6 March 2021, around the time when Child A's girlfriend had been bitten by a dog. The available evidence in relation to 5 March 2021 indicated that Child A was returned to the Placement by the police and was not permitted to stay.
32. Ms Atkin further submitted that on each of the listed dates, there was no evidence to support that Child A had been reported as missing and that Mr Nunnerley was aware that he was missing or deemed missing. There was evidence to suggest that there were dates on which Child A was said to have been missing but where the police had not treated him as such as his whereabouts were known. There was also evidence to suggest that staff at the Placement were aware that Child A had been visiting the Address but had raised no concerns about it. Ms Atkin submitted that it could not therefore be proved that, at any point Mr Nunnerley knew that Child A did not have consent to be there.
33. Ms Atkin further accepted, on behalf of Social Work England, that in relation to regulatory concern 5, Mr Nunnerley had provided an account that he had allowed Child A and Child M to attend the Address in order to take his dog for a walk in the early evening. In its written statement of case, Social Work England conceded that the COVID-19 guidance which was in place during the period between January and March 2021 may have permitted Child A to engage in such activity, on the basis that an individual was permitted to leave their home to attend to the care and exercise of an animal, and/or for the purposes of outdoor exercise. While there was some hearsay evidence that Child A was entering and staying at the Address in this period for other reasons, there was no evidence that Mr Nunnerley was aware of, or had permitted, him to do so (other than in relation to 6 March 2021 where it appears that an agreement was reached with staff at the Placement). Further, while Mr Nunnerley had suggested in his initial response to the regulatory concerns that Child A and Child M had on occasion stayed for tea, he had subsequently clarified that they would sit in an outdoor seating area, and that all restrictions and guidance were followed.

34. Ms Atkin invited the panel to find that there was no longer a realistic prospect of proving the factual particulars set out in regulatory concerns 1, 4 and 5. She submitted that, even if the panel considered there to be sufficient evidence to bring a factual regulatory concern against Mr Nunnerley arising out of regulatory concerns 1, 4 and 5, Social Work England nevertheless considered that there was no realistic prospect of a panel finding that any culpable failure on the part of Mr Nunnerley, in relation to Child A's attendance at the Address, was so serious as to amount to misconduct.
35. Ms Atkin highlighted that there was positive evidence that Child A's attendance at the Address was permitted or tolerated by those responsible for his care. Mr Nunnerley was not the only person living at the property. There was nothing to suggest that the local authority had shared concerns with Mr Nunnerley about his contact with Child A prior to 12 March 2021. There was also nothing to suggest that Mr Nunnerley had been informed that Child A was not permitted to attend the Address to walk dog prior to 12 March 2021. There was no evidence that Mr Nunnerley had allowed Child A to attend the Address after the visit by Ms Collins and Ms Hardy on or around 12 March 2021. Finally, there was no evidence to suggest that Mr Nunnerley was aware that Child A had stayed at the property other than on 5 March 2021 following his girlfriend having been bitten by a dog and Mr Nunnerley taking it upon himself to ensure that she received medical care.
36. In conclusion, Ms Atkin submitted that the further enquiries undertaken on behalf of Social Work England had not provided any further evidence to establish the ground of misconduct.
37. In relation to regulatory concern 2, that:

Drugs paraphernalia was observed to be present in your home.

Ms Atkin reminded the panel that the case examiners had found that there was a realistic prospect that this regulatory concern would be found proved based on the report of Heidi Collins as set out in the notes of the strategy meeting on 18 March 2021. Ms Collins had reported that she had looked through the window of the Address and "could see drug paraphernalia on the table in the house". Later on, when asked by Social Work England to explain what exactly she could see, Ms Collins is reported to have said that "[t]he house smelt of cannabis. There was evidence that they had been 'hot knifing' and using bongs. There were coca cola bottles that would suggest bongs. There were rizzlers and bits of tobacco." Ms Collins confirmed in subsequent email correspondence with Social Work England that she had not seen Mr Nunnerley use these items and that she had relied on her previous knowledge and experience "that the items on the table in the living room looked to be those that would be used in the taking of drugs".

38. Within the account provided by Mr Nunnerley to Social Work England, he explained that "the bottle of coke was purchased by one of my house mates to be consumed as a drink (not me as I do not drink fizzy pop) and both my house mates smoke cigarettes and due to the price of cigarettes they purchase tobacco and make "roll ups". I don't know how a bottle of coke, rizla papers and tobacco is assumed to be drug

paraphernalia.” He later went on to say that “i have spoken to my neighbours who explain that the smell of Cannabis comes from a student house who’s (sic)back garden is connected to mine and my neighbours.”

39. Since the date of the case examiners’ decision, Ms Collins had produced a written witness statement for these proceedings, in which she set out in relation to her visit to the Address on or around 12 March 2021, that having reconsidered the matter:

“I would not be confident in confirming with certainty that the items I saw through the window were drug equipment. The bottle could well have simply been a bottle of pop, and the rolling papers used to make cigarettes. I did not see the Social Worker using these items during my visit.

[. . .] Upon entering the living room, the coffee table had been cleared of the items described above. I did note that there was a potential smell of cannabis within the property, however again, having considered this further, I cannot be categorically sure that the smell could be attributed to cannabis being present in the house [. . .].”

40. With respect to the notes of the Strategy Meeting on 18 March 2021, Ms Collins stated:

“I believe that much of what I relayed was more speculative, and was based just on what I saw put into the context of my training regarding drug use.”

41. She concluded by saying:

“I cannot say for definite that the Social Worker had drug paraphernalia in his house, nor can I confidently say that there was cannabis in the property. The items and smell described above could well have been non-drug related.”

42. Ms Atkin submitted that, in light of the new information provided by Ms Collins, there was no longer any realistic prospect of proving the facts of regulatory concern 2. Ms Collins was now uncertain about whether the items she saw were drug paraphernalia and accepted that the information she provided was speculative.

43. Ms Atkin further submitted, on behalf of Social Work England, that even if Ms Collins had seen drugs paraphernalia within the Social Worker’s home, it was unlikely that the presence of this would, in and of itself, amount to misconduct on the part of Mr Nunnerley in circumstances where there was no evidence that he knew about and/or was responsible for the presence of such items. Ms Collins had confirmed that “[t]here were multiple other people thought to be living at the property at the time” and furthermore, these items had been cleared, and she did not see Mr Nunnerley using them, during her visit.

44. In relation to regulatory concern 3, that:

“You misled the police by saying that you were part of Child A’s care plan and/or that it was appropriate for him to be at your home, when this was not the case.”

Ms Atkin submitted that the only evidence to support this regulatory concern was anonymous hearsay evidence of what the police were said to have reported to one or more professionals present at the strategy meeting on 18 March 2021. Further enquiries of the police since the decision by the case examiners had produced no direct evidence as to what Mr Nunnerley had said to any attending police officer or to confirm that they were misled by what was said to them. Nor was there any statement from staff at the Placement to confirm what they had been told by the police.

45. Ms Atkin acknowledged that Mr Nunnerley has consistently denied stating that he was part of Child A's care plan. In written submissions to Social Work England, he has stated:

"At no point did I ever say that I was part of [Child A's] care plan as at first meeting [Child A] I was not aware he was under the care of the local authority and he was introduced to me as "M's boyfriend". I did however tell the police officer that each young person in care has an individual care plan based round their level of need/support and explained that each young persons care plan is diifferent [sic] meaning that not all young people follow the same care plan and I advised that the police chech [sic] his individual care plan to identify the needs, wishes, feelings, views of the young person and also any risk associated with the young person."

46. Ms Atkin submitted that, in light of the new information obtained since the case examiners' decision, there was no realistic prospect of proving the facts of regulatory concern 3. Whilst the case examiners were entitled to take into account information provided within the notes of the strategy meeting on 18 March 2021, that information was hearsay evidence and could not fairly be admitted and/or relied upon for the purposes of a fitness to practise hearing. She submitted that there was no evidence to prove that the police were misled, whether by Mr Nunnerley claiming that he was part of Child A's care plan or by him stating that it was appropriate for Child A to be at the Address, both of which he denied saying. Even if he had made such statement, there was some evidence which indicated that staff at the Placement were aware that Child A was visiting the Address and had allowed him to be there; it could not, therefore, be said that it was misleading for Mr Nunnerley to tell police that it was appropriate for Child A to be at the Address and could not support a finding of Misconduct.

47. In conclusion, Ms Atkin invited the panel to discontinue the case against Mr Nunnerley in full. She said that Social Work England made no specific submission as to whether there was a need for advice or a warning; this would depend on the view the panel took on other aspects of the discontinuance application.

Submissions on behalf of Mr Nunnerley

48. Mr Bealey, on behalf of Mr Nunnerley, indicated that he supported the application in respect of each of the five regulatory concerns and endorsed Ms Atkin's approach in setting out the changes to the evidence since the decision of the case examiners. He

invited the panel to discontinue the case against Mr Nunnerley and to take no further action.

49. Mr Bealey reminded the panel that they were in a different position to that of the case examiners. The case examiners had looked forward based on what evidence may be obtainable prior to any final hearing. There were, therefore, parts of the hearsay evidence which they would have hoped could have been clarified prior to the final hearing. This included, for example, the evidence to support regulatory concern 3. Further enquiries had produced no direct evidence to support this concern and it would be unfair to rely on hearsay evidence to seek to prove the factual particulars, given that Mr Nunnerley would have no way of challenging that evidence.
50. In relation to the other regulatory concerns, Mr Bealey supported the approach taken by Ms Atkins in breaking down the elements that needed to be proven for the concerns to be made out. This included not only that Child A was at the address but that Mr Nunnerley knew he was there and knew Child A was missing. Mr Bealey submitted that this was not sufficiently made out. He said that where there was evidence that Child A may have been at the address, there was only one instance where it could properly be said Mr Nunnerley was aware he was present; that was the incident involving the dog biting Child A's girlfriend. In relation to other instances, there was either direct evidence that Mr Nunnerley was not present or no evidence either way to enable a future panel to find he was there on the balance of probabilities. There was, therefore, no reasonable prospect of finding those facts proven.
51. Mr Bealey further submitted in relation to regulatory concerns 1,4 and 5 that there was no evidence to suggest that any conduct by Mr Nunnerley in allowing or permitting to Child A to stay at the property (with the knowledge that would be required to be imported) to suggest that his behaviour would be "deplorable" in the eyes of fellow social workers.
52. In relation to regulatory concern 2, Mr Bealey reminded the panel of Ms Atkin's submission that Ms Collins had now accepted that her initial view that she had seen drug paraphernalia at the Address was speculative and that she may have been mistaken. He reminded the panel that it was Social Work England which brought the case and it was for them to prove this regulatory concern. He reminded the panel that the Address was a house shared with others and submitted that there was no evidence that Mr Nunnerley would have known of the presence of any drug paraphernalia had it been present, and no evidence that would allow a panel to conclude that it was more likely than not that items in a shared space were his. Mr Bealey submitted that the fact that Social Work England now put forward an application for discontinuance was in itself compelling evidence that there was no longer sufficient evidence to support the charges.
53. Mr Bealey invited the panel to discontinue the case in full against Ms Nunnerley. He submitted that, if the panel were to accede to the discontinuance application, the appropriate course was to take no further action. He submitted that large parts of the

case, as they stand now, supported the account given by Mr Nunnerley at an early stage and neither contradicted nor disproved the account put forward by him from the beginning.

54. Mr Bealey highlighted that there was no evidence that, following the visit to the Address on 12 March 2021 by Ms Collins and Ms Hardy that Child A ever attended the Address again. He submitted that, on that basis the panel could be assured that there were no concerns that would warrant advice or a warning being given.
55. Mr Bealey noted that over 5 years had passed since the matters giving risk to the last of the regulatory concerns had taken place. During that period, there had been no similar incidents reported. At the same time, these proceedings had had a substantial impact on Mr Nunnerley in terms of his mental health and managing the case against him. Mr Bealey submitted that the lack of any repetition of any concerns and the fact that Mr Nunnerley's account was now substantially supported by the evidence, all indicated that taking no further action was the most appropriate course.

Legal advice:

56. The panel was advised that Rule 52(1) of the Fitness to Practise Rules 2019 (as amended) provides that, at any time before determining the final outcome of a fitness to practise hearing, the panel may discontinue one or more of the factual particulars and/or grounds on which the case has been referred, if it is satisfied that new information available since the case examiners' determination means there is no longer a realistic prospect of those matters being found proved. In addition, Social Work England has produced detailed 'Discontinuance Guidance' (updated 23 April 2026) to which the panel should have regard.
57. The panel was advised that the purpose of rule 52 is to ensure that the panel only proceeds with regulatory concerns which remain supported by sufficient and reliable evidence.
58. The panel was reminded that it must have regard to the public interest. However, it is not in the public interest to pursue regulatory concerns that cannot be proved. Proceeding in those circumstances would be unfair to the social worker and would undermine the fairness and proportionality of the regulatory process.
59. The legal adviser referred the panel to the case of *Ruscillo v CHRE* [2004] EWCA Civ 135 in which the Court of Appeal determined that a regulator ought to "play a more pro-active role than a judge presiding over a criminal trial in making sure that the case is properly presented and the relevant evidence is placed before it [para 80]." The panel was also referred to the case of *PSA v NMC and X* [2018] EWHC 70 (Admin) in which the High Court criticised the NMC for its "cavalier approach" in seeking to drop an allegation part way through proceedings and reinforced the importance of fair and rigorous procedures in fitness to practise hearings.

60. The panel was reminded that its task is to ask itself whether there are evidential concerns which may impact on whether there is a realistic prospect of proving the alleged facts, the statutory ground and/or of a finding of impairment being made. The test the panel must apply is the realistic prospect test; that is, whether the evidence, taken at its highest, provides a real, as opposed to a fanciful or remote, prospect of proving the factual particulars.
61. The panel should start by considering whether there is a realistic prospect of proving the factual particulars behind the regulatory concerns. Discontinuance may be appropriate where the evidence has changed or weakened since the case examiners reached their decision; where a key witness is no longer available; or where new material shows that the allegation cannot be proved.
62. The legal adviser advised that, if the panel was satisfied that there was no longer a realistic prospect of proving the factual particulars then the appropriate and proportionate course was to discontinue the case.
63. If, however, the panel considered that the realistic prospect test was met for a finding on one or more of the factual particulars, the panel should go on to consider whether there was a realistic prospect that a panel at a final hearing would find that those facts were sufficiently serious so as to amount to a finding of misconduct, and whether there was a realistic prospect that a final panel would find Mr Nunnerley's fitness to practise currently impaired by reason of that misconduct.
64. The legal adviser reminded the panel of the definition of 'misconduct' which comes from the case of *Roylance v GMC (No 2)* 2000 1 AC 311 which is a falling far short of the standards ordinarily expected of a social worker.
65. As regards impairment, the legal adviser reminded the panel that there is no comprehensive or all-embracing definition of impairment; it is a matter of judgment for the panel. The panel should consider any evidence it has as to events subsequent to the alleged misconduct. It should consider any evidence it has as to the harm caused by Mr Nunnerley's alleged misconduct, his insight, and expressions of remorse or apology.
66. When considering whether there is a realistic prospect that a final panel would find that Mr Nunnerley's fitness to practise is impaired, the legal adviser reminded the panel that it must not lose sight of all three limbs of the overarching objective and must have regard to the wider public interest. If the panel decided that there was no realistic prospect that a substantive panel would make a finding of impairment, it must then make a decision that the social worker's fitness to practise is not impaired and accede to the application to discontinue the case in full.
67. The panel was reminded that upon a decision to discontinue a case in full, it should go on to consider whether to impose an outcome in accordance with paragraph 12(1) of Schedule 2 of the Social Workers Regulations 2018, that is to say it may do one of three things:

- give a warning to the social worker regarding their future conduct or performance;
- give advice to the social worker on any matter related to the fitness to practise proceedings, or;
- take no further action.

68. If the panel finds that there is a realistic prospect that a substantive panel would make a finding of impairment, then that matter will proceed to a final hearing in the usual way. The panel may also make any directions it sees fit in relation to the attendance of witness of further information which Social Work England should obtain.

Panel decision on discontinuance:

69. The panel accepted the advice of the legal adviser and had regard to Social Work England's 'Discontinuance guidance', which provides the framework for determining applications made under Rule 52 where new information has become available since the determination of the case examiners. The panel reminded itself that its role was not to determine the regulatory concern or make findings of fact or misconduct. Rather, it was required to determine whether, in light of the new information relied upon by Social Work England, there remained a realistic prospect that a future fitness to practise panel would conclude that Mr Nunnerley's fitness to practise is currently impaired.

70. The panel reminded itself that the test under Rule 52 requires more than a fanciful or remote prospect of such a determination. In considering the application, it carefully scrutinised the new evidence provided by Social Work England, the written and oral submissions made on behalf of both parties and all of the documentary evidence before it. The panel also reminded itself that the assessment of current impairment is a forward-looking exercise directed to present and future risk.

71. The panel accepted that, at the time the matter was considered by the case examiners almost 3.5 years ago, it was envisaged that further enquiries would be made to explore, verify and/or identify the sources of key information on which the case examiners had relied in determining to refer the matter to a final fitness to practise hearing. The panel accepted that the case examiners had relied on hearsay evidence, as they were entitled to do. Since then, witness statements had been obtained which, in some respects, weakened Social Work England's case against Mr Nunnerley and supported statements he has made throughout these proceedings. In other respects, witness statements which the case examiners might have expected would have been obtained, had not been obtained, for example from Ms Green, who had initially referred the matter to Social Work England, or from staff at the Placement. Furthermore, additional information had been provided by the police which allowed for a more thorough analysis of specific instances when Child A was said to have been reported as missing or to have been present at the Address. The panel noted that the regulatory concerns lacked specificity as to the dates and times when Child A was said to have been reported as missing or to have been present at the Address.

72. The panel considered each of the regulatory concerns in light of the new information which had been provided. It considered that it would be appropriate to consider the regulatory concerns in the same way as the parties had done (and the case examiners before them) taking regulatory concerns 1, 4 and 5 together.
73. The panel accepted the submission by Ms Atkin, on behalf of Social Work England, that these regulatory concerns each required proof that Child A was at the Address on particular occasions. Regulatory concerns 1 and 4 additionally required proof that Child A had been either reported as missing or deemed missing on those occasions. Regulatory concerns 4 and 5 additionally required proof that Mr Nunnerley had allowed Child A to be at the Address; this would require evidence that Mr Nunnerley both knew Child A had stayed at the Address and had permitted it.
74. The panel noted that it was not in dispute that Child A had attended the Address to walk Mr Nunnerley's dog. However, there was evidence before it that the Placement was aware of this and had not objected to it. It could not, therefore, be said that on those occasions when Child A attended to walk the dog, he did not have consent to do so.
75. The panel carefully reviewed the table, compiled by Social Work England from Child A's case notes and information provided by Ms Hardy, of dates on which Child A was said to have gone missing or to have been deemed to have been missing.
76. The panel accepted Ms Atkin's submission that on each of the listed dates, there was no evidence to support that Child A had been reported as missing and that Mr Nunnerley was aware that he was missing or deemed missing. There was some evidence to suggest that there were dates on which Child A was said to have been missing but where the police had not treated him as such as his whereabouts were known. There was also some evidence to suggest that staff at the Placement were aware that Child A had been visiting the Address but had raised no concerns about it. It followed that it could not be proved that, at any point Mr Nunnerley knew that Child A did not have consent to be there.
77. With regard to Mr Nunnerley being present when Child A was at the Address, there was either positive evidence to show that Mr Nunnerley was not present, or no evidence to indicate whether he was present or not, in relation to each occasion listed other than the incidents on or around 5 and/or 6 March 2021, when Child A's girlfriend had been bitten by a dog. The available evidence in relation to 5 March 2021 indicated that Child A was returned to the Placement by the police and was not permitted to stay.
78. The panel accepted that the information now available about this incident appeared to be consistent with Mr Nunnerley's account of an occasion when Child A arrived at the Address, having been contacted by his girlfriend Child M, when Mr Nunnerley was preparing to take Child M to hospital, after she had been bitten by her family dog. There was no evidence that Mr Nunnerley allowed Child A to stay at the Address on this occasion and, indeed, Child A was returned to the Placement by the police.

79. In relation to regulatory concern 5, the panel noted that Social Work England had conceded that the COVID-19 guidance which was in place during the period between January and March 2021 may have permitted Child A to attend the Address to walk Mr Nunnerley's dog. While there was some hearsay evidence that Child A was entering and staying at the Address in this period for other reasons, there was no evidence that Mr Nunnerley was aware of, or had permitted, him to do so (other than in relation to 6 March 2021 where it appears that an agreement was reached with staff at the Placement). Further, there was nothing to contradict Mr Nunnerley's position that when Child A and Child M had on occasion stayed for tea, they would sit in an outdoor seating area, and that all restrictions and guidance were followed.
80. In taking into account all of the above, the panel concluded that there was no longer a realistic prospect of proving the factual particulars set out in regulatory concerns 1, 4 and 5.
81. The panel went on to consider regulatory concern 2. It noted the new evidence in the form of a written witness statement from Ms Heidi Collins upon whose earlier account the concern that there was drug paraphernalia at the Address was based. The panel noted that Ms Collins now accepted that she could not be confident that the items she had seen through the window of the Address on 12 March 2021 were drug paraphernalia. She has accepted that she did not see Mr Nunnerley with any of these items and that comments she had made previously were speculative, based on her training in substance misuse issues. She further stated that she could not confidently state that she had smelled cannabis at the property.
82. The panel took into account that regulatory concern 2 relies solely on the evidence of Ms Collins. Ms Hardy stated that she did not see any drug paraphernalia at the Address on the date of the visit. In light of the new information provided by Ms Collins, the panel concluded that there is no longer any realistic prospect of finding the facts of regulatory concern 2 proved. The panel further concluded that, even if it were accepted that Ms Collins had seen drug paraphernalia at the property, this could not be confirmed as attributable to Mr Nunnerley in circumstances where he shared the property with others and had not been seen with the items.
83. The panel next considered whether there was a reasonable prospect that regulatory concern 3 could be found proved. The panel reviewed the evidence in support of this regulatory concern and noted that the only evidence to support it was anonymous hearsay evidence. Appropriate further enquiries had been made of the police since the decision by the case examiners but this had produced no direct evidence as to what Mr Nunnerley had said to any attending police officer as to his involvement in Child A's care plan or whether it was appropriate for Child A to be at the Address. Further, there was no evidence before the panel or to confirm that the police were misled by what was said to them. Nor was there any statement from staff at the Placement to confirm what they had been told by the police about what had been said. Even if Mr Nunnerley had made such a statement, there was some evidence which indicated that staff at the

Placement were aware that Child A was visiting the Address and had allowed him to be there; it could not, therefore, be said that it was misleading for Mr Nunnerley to tell police that it was appropriate for Child A to be at the Address.

84. Mr Nunnerley has consistently denied stating that he was part of Child A's care plan and, in the view of the panel, has given a plausible account of a discussion with an attending police officer in relation to young people in care having individual care plans based around their level of need and/or support.
85. The panel considered that there was no realistic prospect of proving the facts of regulatory concern 3. The case examiners were entitled to take into account information provided within the notes of the strategy meeting on 18 March 2021. However, that information was hearsay evidence and could not fairly be admitted and/or relied upon for the purposes of a fitness to practise hearing.
86. The panel, therefore, found that in respect of each of the five regulatory concerns in relation to Mr Nunnerley, there was no realistic prospect of the facts being found proved. The panel was, therefore, not required to go on to consider whether there was a realistic prospect that a panel at a final hearing would find misconduct or impairment. The panel has, therefore, decided to accede to Social Work England's discontinuance application and found that Mr Nunnerley's fitness to practise is not currently impaired in accordance with Rule 52(3) of the Fitness to Practise Rules 2019 (as amended).
87. Having determined that there was no reasonable prospect of any of the factual particulars being found proved, the panel could see no basis on which to issue advice or a warning to Mr Nunnerley and determined to take no further action in relation to his registration. In making this decision the panel has taken into account Social Work England's 'Impairment and sanctions guidance'.

The Professional Standards Authority:

88. 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>.