

Social worker: Nigel Wayne
Johnson

Registration number: SW27714

Fitness to Practise

Final Hearing

Dates of hearing: 1 September 2026 to 3 September 2026

Hearing venue: Remote hearing

Hearing outcome:

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 Johnson attended and was represented by a family friend Ms Lovona Brown.
3. Social Work England was represented by Ms Katie Mustard 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
Kerry McKevitt	Chair
Anna Racher	Social worker adjudicator
Louise Wallace	Lay adjudicator

Hearings team/Legal adviser	Role
Hannah Granger	Hearings officer
Chiugo Eze	Hearings support officer
Zill-e-Huma	Legal adviser

Service of notice:

5. The panel considered all of the documents before it relating to service of the notice of hearing. Mr Johnson was present at the hearing and confirmed that he had no concerns regarding service. Having considered the documentary evidence and Mr Johnson’s position, the panel was satisfied that notice of the hearing had been duly served upon him in accordance with Rule 14 of the Social Work England Fitness to Practise Rules 2019 (as amended). The panel therefore determined that service was effective and that the hearing could proceed.

Preliminary matters:

6. Ms Mustard, on behalf of Social Work England, made an application pursuant to Rule 38 of the Fitness to Practise Rules for those parts of the hearing concerning Mr Johnson’s health and other matters relating to his private life to be heard in private. She submitted that such matters arose within the documentary evidence and might arise at various stages of the hearing. The application was limited to those discrete matters, with the substantial majority of the hearing remaining in public. Ms Brown, on behalf of Mr Johnson, had no objection to the application.
7. The panel heard and accepted the advice of the legal adviser. The legal adviser advised that the starting point was the principle of open justice. However, pursuant to Rule 38(a)(ii), where the proceedings are considering the physical or mental health of the registered social worker, that part of the hearing shall be held in private. The panel was further advised that Rule 38(b) provides a discretion to hear all or part of the proceedings in private where appropriate, having regard to the vulnerability, interests or

welfare of any participant or the wider public interest. In relation to any private-life matters falling outside Rule 38(a)(ii), the panel should balance the principle of open justice against Mr Johnson's interests and welfare and ensure that any restriction was necessary and proportionate.

8. The panel determined that those parts of the hearing concerning Mr Johnson's health would be heard in private pursuant to Rule 38(a)(ii). It further determined, pursuant to Rule 38(b), that any other discrete matters concerning Mr Johnson's private life should be heard in private where necessary to protect his interests and welfare. The remainder of the hearing would be conducted in public. The panel was satisfied that this was a necessary and proportionate approach which appropriately balanced Mr Johnson's privacy and welfare with the wider public interest in open and transparent proceedings.

Background:

9. On 21 September 2019, the Health and Care Professions Council (HCPC) received a referral from Stoke-on-Trent City Council concerning Mr Nigel Wayne Johnson. At the relevant time, Mr Johnson was working as an agency social worker within the Children and Disabilities Team at Stoke-on-Trent City Council.

The referral: *"Concern raised by a parent at a meeting on the 1/03/18 that there were concerns in respect of her child's father's ability to manage and care for him appropriately. That on two occasions following contact visits her daughter had witness and spoke of father hitting her brother. That on one occasion, in December 2017, the child returned home with a cut to his head and father was unable to give any explanation. This was disclosed to the social worker on the 01/03/18. This was not escalated to a discussion with a manager and the authorities safeguarding policies and procedures were not followed. The information was highlighted to the team on the 09/04/18 by the parent and safeguarding policies were instigated".*

Subsequent to the Social Work England investigation, the allegations related to Mr Johnson's safeguarding practice in respect of two service users on his caseload, including that he had stated that he had undertaken a visit to a service user when he had not.

Allegations:

10. The allegations arising out of the regulatory concerns referred by the Case Examiners on 28 June 2022 is:

"Whilst registered as a social worker;

1. You failed to safeguard Service User 1 in that you did not take appropriate action(s) following concerns raised during a Team Around the Child meeting on 1 March 2018;

2. On or around the 5 March 2018 you claimed that you had visited Service User 3 at the Care Home when you had not;

3. Your actions in paragraph 2 were dishonest;

The matters outlined above amount to the statutory ground of misconduct.

By reason of misconduct your fitness to practise is impaired.”

Admissions:

11. Rule 32c(i)(aa) Fitness to Practise Rules 2019 (as amended) (the ‘Rules’) states:
Where facts have been admitted by the social worker, the adjudicators or regulator shall find those facts proved.
12. Following the reading of the allegations the panel chair asked Mr Johnson whether he admitted any of the allegations and whether he admitted that his fitness to practise is currently impaired.
13. The panel noted that Mr Johnson denied allegations 1,2 and 3.
14. In line with Rule 32c(i)(a) of the Rules, the panel then went on to determine the disputed facts.

Summary of evidence:

Social Work England:

15. Ms Mustard, on behalf of Social Work England, submitted that the burden of proof rests upon Social Work England and that each allegation can only be found proved if the panel is satisfied on the balance of probabilities. Mr Johnson is not required to prove anything in response to the allegations. She reminded the panel that its task at this stage is one of fact-finding and accordingly confined her submissions principally to the evidence relevant to the factual allegations, rather than wider contextual matters which may become relevant at a later stage if reached.
16. Ms Mustard submitted that the panel had the benefit of hearing live evidence from two witnesses called on behalf of Social Work England, which should be considered together with their written statements and the documentary exhibits. Social Work England's position was that, when that evidence was considered as a whole, there was sufficient cogent evidence to prove the allegations against Mr Johnson to the requisite standard.
17. In relation to Allegation 1, Ms Mustard submitted that, because the allegation concerned a failure to safeguard Service User 1, the panel should first consider whether Mr Johnson was under a duty to safeguard Service User 1. She referred to Mr Wild's evidence concerning the scope of Mr Johnson's role at Stoke, which he described as a full social work role notwithstanding Mr Johnson's status as an agency worker. His responsibilities included undertaking assessments and attending relevant meetings and conferences. Social Work England submitted that safeguarding the children and service users allocated to him, and taking appropriate action when safeguarding concerns arose, formed part of Mr Johnson's professional responsibilities.

18. Ms Mustard submitted that Mr Johnson had been allocated Service User 1's case on 6 October 2017, several months before the events giving rise to Allegation 1. By March 2018, he would therefore have been familiar with the case and with his professional responsibilities towards Service User 1, including the action required where safeguarding concerns were raised.
19. Ms Mustard acknowledged the submissions made on Mr Johnson's behalf concerning uncertainty as to whether safeguarding concerns had been communicated directly to him before 1 March 2018. She accepted that, although there were references within the documentary evidence, including email communications from Service User 1's mother, which suggested that earlier and more direct disclosures may have been made to Mr Johnson, neither of Social Work England's witnesses could directly attest to such a disclosure. She submitted, however, that this did not determine Allegation 1 because the allegation was specifically concerned with Mr Johnson's alleged failure to take appropriate action following the Team Around the Child meeting on 1 March 2018.
20. Ms Mustard submitted that the notes of the meeting demonstrated that Mr Johnson was present and that there was no dispute about his attendance. Accordingly, even if 1 March 2018 represented the first occasion upon which Mr Johnson became aware of the safeguarding concerns, Social Work England's case was that he was thereafter under an obligation to take appropriate action. Ms Mustard accepted that other professionals present at the meeting may also have had their own responsibilities to act or follow matters up. She submitted, however, that this did not remove or diminish Mr Johnson's own responsibilities as the allocated social worker and the only social worker present at that meeting.
21. Ms Mustard referred to Mr Wild's evidence concerning the steps he would have expected Mr Johnson to take upon becoming aware of safeguarding information of this nature. She submitted that there was no evidence within the case records demonstrating that Mr Johnson took those steps following the meeting on 1 March 2018.
22. Ms Mustard further relied upon the complaint email sent by Service User 1's mother to the local authority on 9 April 2018, which reiterated the two principal safeguarding concerns that had been raised at the meeting on 1 March. She submitted that the evidence indicated that this was the point at which the concerns became known more widely within the local authority. In support of that submission, she relied upon the absence of any earlier reference to the concerns within the case records and Ms O'Connor's evidence that, had Mr Johnson raised those matters with her following the meeting, both she and Mr Johnson would have been under an obligation to record the concerns and take appropriate action.
23. Ms Mustard submitted that it was unlikely that both Mr Johnson and Ms O'Connor would have failed to make any record or take any action had the concerns in fact been escalated to Ms O'Connor in March. She contrasted the absence of recorded action following the 1 March meeting with the response to the mother's email of 9 April 2018. A

strategy discussion took place two days later, on 11 April 2018. She relied upon Mr Wild's evidence that safeguarding concerns of this nature required an expeditious response and submitted that the speed of the response following the April email supported Social Work England's case that the relevant concerns had not previously been brought to the attention of those responsible for taking further action.

24. Ms Mustard acknowledged that Ms O'Connor could not, due to the passage of time, independently recall whether Mr Johnson had spoken to her about the concerns. She submitted, however, that there was more contemporaneous evidence supporting the proposition that he had not done so. She referred in particular to Ms O'Connor's emails from 2022, which she had prepared after checking the relevant case notes and records and which identified no record of the safeguarding concerns having been raised with her. Ms Mustard submitted that the absence of any such record was significant given Ms O'Connor's evidence that, had the matter been raised with her, there would have been an obligation upon both her and Mr Johnson to record it and take positive action.
25. Ms Mustard submitted that, although proving an omission inevitably involved considering the absence of evidence that an act occurred, the absence of any relevant entry in the case records, considered together with the subsequent local authority investigation and the evidence of Mr Wild and Ms O'Connor, provided evidence from which the panel could properly conclude that Mr Johnson had not taken the safeguarding action expected of him following the meeting on 1 March 2018. Social Work England therefore submitted that Allegation 1 was proved on the balance of probabilities.
26. Turning to Allegation 2, Ms Mustard submitted that the allegation concerned Mr Johnson stating, on or around 5 March 2018, that he had visited Service User 3 when Social Work England's case was that he had not undertaken the required visit. The date of 5 March corresponded with a pod (group) supervision session during which Service User 3's case was discussed. She referred to the supervision notes and to Ms O'Connor's evidence as a participant in that meeting and submitted that both supported the proposition that Mr Johnson had stated during supervision that he had visited Service User 3 at the placement.
27. Ms Mustard relied upon Ms O'Connor's evidence concerning the distinction between a visit to Service User 3's placement and a visit to Service User 3's home. A visit to the placement was required under the relevant local policy. She submitted that the use of the word "placement" in the supervision notes was significant and was not readily capable of being confused with a home visit. In Social Work England's submission, the reference to a placement visit denoted a visit to Woodview, where Service User 3 was receiving respite care.
28. Ms Mustard submitted that, even if there were some possibility of misunderstanding or miscommunication by the person who recorded the supervision notes, Ms O'Connor's contemporaneous conduct following the supervision meeting supported Social Work England's interpretation of what had been said. Shortly after the supervision session,

Ms O'Connor contacted Mr Snape at Woodview and asked him to check the signing-in records going back to December. Ms Mustard submitted that this demonstrated that Ms O'Connor had understood Mr Johnson to be saying that he had visited Service User 3 at Woodview; otherwise there would have been no apparent reason for her to seek contemporaneous verification of whether such a visit had taken place.

29. Ms Mustard further submitted that Mr Johnson, as Service User 3's allocated social worker, would have known that a visit to Woodview was overdue and required. By that stage, he had been working at Stoke for more than six months and, according to Ms O'Connor's evidence, notwithstanding his status as an agency worker, he had the same access to the relevant policies as permanent members of staff.
30. Ms Mustard also relied upon an email from Amanda Lockett, a support worker at Woodview, which had been sent directly to Mr Johnson and referred to a statutory visit being overdue. She submitted that, even if Mr Johnson had not previously appreciated that the visit was required, the matter had therefore been expressly brought to his attention before the statement made during the pod supervision in March.
31. Social Work England's case was consequently that, when Mr Johnson stated during supervision that he had undertaken a visit to the placement when no such visit had taken place, he knew that the representation was untrue. Ms Mustard submitted that the statement was made for the purpose of avoiding detection of his failure to undertake a visit which he knew was required.
32. In relation to dishonesty, Ms Mustard submitted that the panel would be directed as to the applicable legal test. Social Work England's case was that Mr Johnson's actual knowledge and understanding of the circumstances could be inferred from his role as the allocated social worker, his knowledge that the statutory visit was overdue, the email expressly drawing that matter to his attention and the statement subsequently made during supervision that the placement visit had taken place. Social Work England submitted that the purpose of that representation was to conceal the fact that the required visit had not been undertaken.
33. Ms Mustard also relied upon Ms O'Connor's evidence concerning the importance of honesty, trust and integrity within social work practice and the impact upon professional confidence when information known to be inaccurate is provided. Social Work England submitted that, having determined Mr Johnson's actual knowledge or belief as to the facts, an ordinary decent person would regard the deliberate making of such a representation in those circumstances as dishonest.
34. Ms Mustard accordingly submitted that, when the oral and documentary evidence was considered together, Social Work England had discharged the burden of proof. She invited the panel to find Allegation 1 proved on the basis that Mr Johnson failed to take appropriate safeguarding action following the Team Around the Child meeting on 1 March 2018, and to find Allegation 2, including the alleged dishonesty, proved on the balance of probabilities.

Social worker:

35. Ms Brown submitted on behalf of Mr Johnson that the panel was required to determine whether Social Work England had discharged the burden of proving each allegation on the balance of probabilities. Mr Johnson did not bear the burden of explaining every uncertainty in the evidence or demonstrating that every aspect of the records was accurate. The question for the panel was whether, having considered the evidence as a whole, it could properly be satisfied that the factual particulars alleged against him were more likely than not to have occurred.
36. In relation to Allegation 1, Ms Brown submitted that the central issue was whether Social Work England had established that the safeguarding concerns were raised with Mr Johnson, what information was communicated to him and whether, having received that information, he failed to take the safeguarding action required of him. She submitted that the evidence did not establish those matters to the requisite standard. Neither Mr Wild nor Ms O'Connor was able to confirm with certainty the precise information communicated directly to Mr Johnson, nor was either witness able to establish that Mr Johnson personally received or viewed the photographs or video material said to evidence injury to the child. Ms Brown submitted that material uncertainty therefore remained as to what information was received, by whom, when it was received, how it was communicated and how it was subsequently recorded.
37. Ms Brown submitted that Mr Johnson had consistently maintained that, following the relevant Team Around the Child meeting, he discussed the safeguarding concerns with his direct manager, Ms O'Connor. She submitted that the absence of a corresponding entry on the child's record did not establish that the discussion had not taken place. She relied upon Ms O'Connor's evidence that responsibility for determining whether a multi-agency strategy discussion was required rested with her in her managerial capacity and that a social worker would act upon the direction provided by management. Ms Brown further submitted that safeguarding was a shared professional and multi-agency responsibility and should not retrospectively be attributed exclusively to Mr Johnson without first establishing what information had been communicated to him and what particular safeguarding action was his responsibility to undertake.
38. Ms Brown also responded to Social Work England's submission concerning Ms O'Connor. She submitted that Social Work England appeared to proceed on the basis that, had Mr Johnson informed Ms O'Connor of the safeguarding concerns, Ms O'Connor would necessarily have acted upon them and, because there was no evidence that she had done so, the conversation could not have taken place. Ms Brown submitted that there was no sufficient evidential basis upon which the panel could safely make that assumption.
39. Mr Johnson's position remained that he had spoken to Ms O'Connor about the concerns. Ms Brown submitted that this evidence should be considered within the realities of a busy social work team, in which a manager could have numerous competing professional demands upon her attention. It was possible that information

had been communicated to Ms O'Connor but that consideration of the appropriate response or further instruction to Mr Johnson had not subsequently been progressed. The absence of subsequent action or a corresponding record could not, in itself, establish that Ms O'Connor had never received the information from Mr Johnson. Ms Brown submitted that to reason otherwise would risk substituting assumption for evidence.

40. Ms Brown further submitted that the fact that the local authority subsequently considered the safeguarding concerns in April 2018 did not establish that this was necessarily the first occasion upon which those concerns had been raised or communicated. By the time of the subsequent strategy discussion, Mr Johnson was no longer the allocated social worker and therefore did not participate in that process. He had left the service shortly thereafter in circumstances in which he needed to attend to his medical needs. Ms Brown submitted that this provided relevant context and that Mr Johnson's absence from the later safeguarding process should not be relied upon to infer that he had failed to raise the concerns at an earlier stage.
41. Ms Brown also referred to the uncertainty in the evidence as to when the photographs and video material were received by the local authority. She submitted that the evidence raised the possibility that those materials were not received until after Mr Johnson had left the service. If that were the case, they could not properly support an inference that Mr Johnson had personally seen them and thereafter failed to act.
42. Ms Brown acknowledged the importance of accurate and timely case recording but invited the panel to consider the circumstances in which the records relied upon were produced. Mr Johnson had disclosed that he has [PRIVATE]. The evidence before the panel did not establish what reasonable adjustments, assistance, training or other support had been made available to him. Ms Brown made clear that [PRIVATE] did not excuse a failure to meet professional standards. Rather, she submitted that, before drawing adverse conclusions from deficiencies in recording, the panel should consider whether appropriate support and reasonable adjustments had been available to Mr Johnson and whether the respective responsibilities of the local authority and his employment agency had been sufficiently clear.
43. Ms Brown further invited the panel to approach the conclusions of the local authority investigation with appropriate caution. She submitted that, on the evidence before the panel, the investigation had been undertaken without substantive input from either Mr Johnson or his employing agency. Although it was said that attempts had been made to contact them, no documentary evidence had been presented establishing when those attempts were made, how frequently contact was attempted, what was communicated or what meaningful opportunity Mr Johnson was afforded to respond. Both Mr Johnson and his employing agency maintained that they had not received such contact. Ms Brown also referred to the fact that Mr Johnson had left the service in order to [PRIVATE] and submitted that there was no evidence demonstrating that his circumstances or his ability to engage at the relevant time had been considered.

44. Ms Brown submitted that where an investigation concerned allegations capable of having serious consequences for a professional's career and reputation, fairness required that the individual concerned be afforded a meaningful opportunity to respond to the allegations and the evidence relied upon. She submitted that the absence of such an opportunity was relevant to the weight that the panel could safely attach to the conclusions subsequently reached by the local authority.
45. Ms Brown also relied upon Mr Wild's evidence that, although concerns were identified at the conclusion of the investigation regarding Mr Johnson's safeguarding practice and credibility, those concerns were not referred to the Local Authority Designated Officer and were not shared with Mr Johnson's employer. She did not submit that the absence of such a referral established Mr Johnson's innocence. Rather, she invited the panel to consider whether the appropriate allegation-management procedures had been followed and what weight could properly be attached to the investigation in circumstances where material factual disputes remained unresolved.
46. Ms Brown further submitted that the panel should have regard to the evidence concerning Mr Johnson's wider professional character and employment history. She referred to evidence from Mr Johnson's employment agency and his current employers, including positive references concerning his professional practice. She submitted that there had been no previous concerns regarding Mr Johnson's professional conduct, his understanding of safeguarding, his honesty or his credibility, and that this was the first occasion upon which allegations of this nature had been made against him. Ms Brown invited the panel to consider and balance that evidence of Mr Johnson's character and employment record alongside the allegations and the evidence as a whole.
47. Turning to Allegation 2, Ms Brown submitted that the allegation required particularly careful scrutiny because Social Work England sought to characterise Mr Johnson's conduct as deliberate dishonesty and an attempt to conceal wrongdoing. She submitted that the evidential foundation for such a serious conclusion required careful examination.
48. Ms Brown submitted that the allegation appeared substantially to depend upon the distinction between a "home visit" and a "placement visit". However, Ms O'Connor had confirmed that the relevant wording was not personally entered onto the child's record by Mr Johnson. Rather, it was entered by a business support officer from notes taken during a supervision session. Ms O'Connor subsequently signed off the case notes and agreed the minutes, but she had not seen the contemporaneous handwritten notes and was unable to identify the business support officer who had taken them. Ms Brown submitted that this created material uncertainty as to the provenance of the particular wording upon which the allegation was founded.
49. Ms Brown submitted that the evidence nevertheless established that Mr Johnson had seen the child at home. She submitted that the issue was therefore not whether the child had been seen at all, but whether Mr Johnson had claimed to have undertaken a visit at the placement when he had not. She submitted that the panel was being asked

to make a substantial evidential leap from the wording contained within a record created by another person to a finding that Mr Johnson had deliberately made a false representation. An inaccurate or inconsistent description of the visit did not, without more, establish that Mr Johnson had made the claim alleged.

50. Ms Brown submitted that there was no clear evidence that Mr Johnson personally created the wording relied upon, no clear evidence that he deliberately created a false record and no compelling evidence of a subsequent attempt to conceal a failure to undertake the placement visit. She therefore invited the panel to distinguish carefully between an error, poor recording or administrative inconsistency on the one hand and a deliberate false representation on the other.
51. Ms Brown further submitted that the recording process involved more than one individual. Where records were generated from supervision discussions, entered by business support staff and subsequently reviewed and approved by management, responsibility for a particular expression could not automatically be attributed to Mr Johnson merely because the information related to his case. She submitted that the evidence would need to establish what Mr Johnson had actually said, how that information came to be recorded and whether the words ultimately entered accurately reflected what had been communicated during the supervision discussion.
52. Ms Brown also invited the panel to consider the evidence concerning Mr Johnson's status as an agency worker. She referred to evidence suggesting that the response to the circumstances might have been different had Mr Johnson been a permanent employee and that workforce development, training or other supportive interventions might then have been available. She submitted that this provided relevant professional context and demonstrated that at least some of the concerns might ordinarily have been addressed through management, support, training or professional development. The panel had not been provided with sufficient evidence demonstrating how responsibility for providing such support was divided between the local authority and Mr Johnson's employment agency or how those responsibilities were communicated and implemented.
53. Ms Brown also addressed Mr Johnson's decision not to give oral evidence. She submitted that his decision should not be treated as an admission of the allegations or as evidence that he accepted wrongdoing. Mr Johnson had asked her to make clear that his decision arose against the background of the considerable [PRIVATE] by repeatedly having to establish his professional worth and integrity and by experiences in his professional life in which he felt assumptions had been made about him. He described being stopped by the police while travelling to see service users and becoming conscious of the need to speak quietly and carefully because of a concern that his demeanour might otherwise be misunderstood. He regarded these experiences as manifestations of unconscious bias. Ms Brown submitted that, whether or not every individual experience could objectively be attributed to bias, the impact of those experiences upon Mr Johnson was real. She therefore submitted that his decision not to

give evidence should be understood in that context and should not itself be converted into an evidential admission.

54. In conclusion, Ms Brown submitted that Mr Johnson recognised the seriousness of the allegations and the fundamental importance of safeguarding children, accurate recording and effective professional communication. His case was not that shortcomings in professional practice were unimportant, but that serious factual findings had to be established by evidence capable of supporting those findings on the balance of probabilities.
55. In relation to Allegation 1, Ms Brown submitted that significant uncertainty remained as to the precise safeguarding information communicated to Mr Johnson, whether he personally received or saw the photographs or video material relied upon, whether he raised the concerns with Ms O'Connor and whether, having received information requiring action by him, he failed to take the appropriate safeguarding steps. In relation to Allegation 2, she submitted that the evidence did not establish to the requisite standard that Mr Johnson had claimed to have undertaken a placement visit which he knew he had not undertaken.
56. Ms Brown submitted that significant evidential gaps, inconsistencies and unanswered questions remained concerning the underlying events, the provenance of the records, the local authority investigation, Mr Johnson's opportunity to respond, and the support and reasonable adjustments available to him as an agency worker. She submitted that the panel should not fill those evidential gaps by speculation or assumption. Accordingly, Ms Brown submitted that Social Work England had not discharged the burden of proving the allegations on the balance of probabilities and invited the panel to find the allegations not proved.

Legal advice:

57. The panel heard and accepted the advice of the legal adviser. The legal adviser advised that the burden of proof rested throughout on Social Work England and did not shift to Mr Johnson, and that the applicable standard was the balance of probabilities. Each allegation and factual particular should be considered separately, with all of the evidence assessed in the round.
58. In assessing witness evidence, the panel was advised to distinguish between credibility and reliability and not to place undue reliance on demeanour or presentation. It should consider the substance of the evidence, its internal consistency and its consistency with contemporaneous documents, undisputed facts and other reliable evidence. Contemporaneous documents could be particularly valuable in testing later recollections, but their accuracy, completeness, context and reliability should also be considered. The panel should focus on the quality and cogency of the evidence and avoid speculation, assumption, hindsight or unsupported inference.
59. The panel was advised that Mr Johnson's previous good character and positive testimonials were relevant to its assessment of the evidence, including credibility and,

where dishonesty was alleged, propensity, but were not determinative and should be given such weight as the panel considered appropriate.

60. In relation to dishonesty, the panel was advised to apply *Ivey v Genting Casinos (UK) Ltd* [2017] UKSC 67 by first determining Mr Johnson's actual knowledge or belief as to the facts and then deciding whether, given those facts as he genuinely believed them to be, his conduct would be regarded as dishonest by the standards of ordinary decent people. Finally, the panel was advised to give clear and adequately reasoned findings, identifying how it had resolved any material conflicts in the evidence and ensuring that its conclusions were grounded in the evidence.

Finding and reasons on facts:

61. In reaching its decision on the facts, the panel considered all of the evidence before it. The panel heard live evidence from two witnesses called by Social Work England, namely Mr Wild, who at the relevant time was employed by Stoke-on-Trent City Council as the Strategic Manager of Targeted Services, and Ms O'Connor, who was employed by the Council as a Team Manager. The panel carefully considered their oral evidence alongside the documentary evidence contained within the hearing bundle, including some limited and partial contemporaneous case records for Service User 3, correspondence and other relevant documentation. The panel also took account of Mr Johnson's written evidence and the submissions made on behalf of both Social Work England and Mr Johnson. In reaching its findings on each allegation, the panel assessed the evidence as a whole and attached such weight to each part of the evidence as it considered appropriate.
62. The panel considered Mr Wild to be a professional and generally straightforward witness who sought to assist the panel and was appropriately willing to acknowledge the limits of his recollection and knowledge. The panel accepted his evidence concerning social work practice, safeguarding procedures and the respective roles and responsibilities within the service, including his evidence that the decision to initiate a strategy discussion rested with the team manager. The panel considered that he did not seek to overstate matters when he was unable to recall them and was prepared to acknowledge where his evidence was based upon assumption rather than direct knowledge.
63. However, the panel treated with greater caution those parts of Mr Wild's evidence which concerned what had actually occurred in Mr Johnson's cases. Much of that evidence was not derived from Mr Wild's first-hand knowledge but from the subsequent local authority investigation and conclusions reached by others. He had not personally seen all of the underlying contemporaneous records and could not confirm a number of material matters, including when the concerns were first communicated directly to Mr Johnson or whether Mr Johnson had received the photographs or video material. The panel therefore considered Mr Wild's evidence helpful in relation to expected professional processes and procedures, but attached more limited weight to it insofar as it purported to establish disputed historical facts concerning Mr Johnson's conduct.

64. The panel found Ms O'Connor to be a professional and generally straightforward witness. She was open about the extent to which the passage of approximately eight years had affected her ability to remember particular events and did not seek to fill gaps in her recollection. The panel found her evidence helpful in explaining the structure of the service, the respective responsibilities of social workers and managers, the requirements relating to placement visits and the procedures ordinarily followed when safeguarding concerns arose.
65. In relation to Service User 1, however, Ms O'Connor was unable to recall whether Mr Johnson had discussed the safeguarding concerns with her and did not positively contradict his account that he had done so. She had also not seen the original communications or images said to have been provided by Service User 1's mother. In those circumstances, her evidence provided limited assistance to the panel in determining the disputed question of whether Mr Johnson had raised the concerns with her.
66. Ms O'Connor's involvement in the matters concerning Service User 3 was more direct, including her involvement in the pod supervision process and her subsequent discussion with Mr Johnson. Nevertheless, the panel took account of limitations in the underlying material when assessing this aspect of her evidence. The pod supervision record had been made by a non-social work qualified team coordinator whom Ms O'Connor could no longer identify; she had not seen the contemporaneous handwritten notes from which the record was produced and accepted that recording errors could occur notwithstanding her managerial oversight.
67. Of particular significance to the panel was that Ms O'Connor's contemporaneous note of 12 March 2018 did not contain the more serious matters subsequently described in her witness statement, including that she had challenged Mr Johnson about his honesty, and referred him to the HCPC standards. This was the context that led to his subsequent apology and the comment that he did not know what he was thinking. Ms O'Connor was unable independently to recall the substance of that discussion or to explain with certainty why those matters had not been recorded at the time. The panel did not regard these limitations as undermining Ms O'Connor's evidence as a whole; however, where her later account concerned disputed events not reflected in the contemporaneous record, the panel considered that it was appropriate to approach that evidence with caution.
68. The panel considered Allegation 1, namely that:
- "You failed to safeguard Service User 1 in that you did not take appropriate action(s) following concerns raised during a Team Around the Child meeting on 1 March 2018."*
69. The panel reminded itself that the burden of proving the allegation rested throughout upon Social Work England and that Mr Johnson was not required to prove that he had acted appropriately or to provide an explanation for every gap or uncertainty in the evidence. The panel applied the civil standard of proof and considered whether, on the evidence before it, it was more likely than not that Mr Johnson had failed to take

appropriate action following the concerns raised at the Team Around the Child meeting on 1 March 2018, as alleged.

70. The panel carefully considered the oral and documentary evidence together with the submissions made by Ms Mustard on behalf of Social Work England and Ms Brown on behalf of Mr Johnson. It accepted Social Work England's submission that, as the allocated social worker, Mr Johnson had professional responsibilities towards Service User 1 and that the presence of other professionals at the Team Around the Child meeting did not remove his own safeguarding responsibilities. The panel also recognised the importance of concerns relating to potential harm to a child being appropriately considered and escalated where necessary.
71. The panel noted, however, that Allegation 1 was framed in terms of Mr Johnson having failed to take "appropriate action(s)" following the meeting. The allegation did not particularise the specific action which Mr Johnson was alleged to have been required, but failed, to take. The panel therefore considered it necessary to examine carefully the information known to Mr Johnson at the relevant time, the action which followed the concerns raised at the meeting, what further action fell within his professional responsibility and whether Social Work England had proved that he failed to take such action.
72. The panel considered the contemporaneous documentary evidence relating to the Team Around the Child meeting. It noted that safeguarding concerns were raised and that the contemporaneous material recorded that an urgent Child in Need meeting was required and was arranged for 22 March 2018. The panel regarded this as significant because it demonstrated that the concerns raised on 1 March 2018 resulted in an identified safeguarding response. The evidence did not therefore present a situation in which concerns were raised and no action followed.
73. The panel also considered carefully the distinction between a Child in Need meeting and a strategy discussion. It accepted that these represented different stages of safeguarding intervention and that the decision to initiate a strategy discussion required the active involvement of the relevant manager rather than with Mr Johnson alone. Of particular significance was Ms O'Connor's evidence that the action she would have expected Mr Johnson to take upon receiving safeguarding concerns of this nature was to discuss them with her as his manager, following which consideration could be given to whether a strategy discussion was required. The panel therefore considered that an important factual issue in determining the allegation was whether Mr Johnson had, as he maintained, raised the concerns with Ms O'Connor following the Team Around the Child meeting.
74. The panel considered Mr Johnson's account that he had spoken to Ms O'Connor and discussed the concerns with her. His account of that discussion was relatively detailed and included his recollection of the matters which were considered and the assessment of the information then available. The panel considered that account alongside Ms O'Connor's evidence. Ms O'Connor did not positively dispute that the

conversation had taken place. Rather, given the passage of approximately eight years, she was unable to recall whether Mr Johnson had raised the concerns with her. The panel considered that distinction important. It was not faced with two positive and irreconcilable accounts of the same conversation. Rather, Mr Johnson had provided an account of a discussion which he said had occurred, whereas Ms O'Connor was unable to remember whether or not it had occurred.

75. The panel took account of Social Work England's submission that, had Mr Johnson raised the concerns with Ms O'Connor, it would have been expected that the discussion would have been recorded and appropriate safeguarding action would have followed. It also considered Social Work England's submission that the absence of such a record, when viewed alongside the safeguarding response which followed Service User 1's mother's subsequent complaint in April 2018, supported an inference that Mr Johnson had not raised the concerns with Ms O'Connor.
76. The panel was not satisfied that it could safely draw that inference to the requisite standard of proof. The documentary evidence available to the panel did not provide a complete contemporaneous picture of the management and safeguarding discussions concerning Service User 1. There was no contemporaneous document before the panel which was capable of resolving whether the discussion described by Mr Johnson had taken place. In those circumstances, the absence of a record documenting the conversation could not properly be treated as positive evidence that the conversation had not occurred.
77. The panel was also conscious that a number of professionals attended the Team Around the Child meeting and were aware of the concerns raised. While this did not absolve Mr Johnson of his individual professional responsibilities, it formed part of the factual context in which the allegation had to be assessed. The contemporaneous evidence demonstrated that the concerns were considered within a multi-agency setting and that an urgent Child in Need meeting was identified as necessary and arranged for 22 March 2018. There was no contemporaneous evidence before the panel demonstrating that, following the Team Around the Child meeting, Mr Johnson was identified as having failed to undertake a particular safeguarding action required of him.
78. The panel considered the subsequent complaint made by Service User 1's mother and the strategy discussion which followed in April 2018. It did not consider that the later escalation, of itself, established that Mr Johnson had failed to take appropriate action in March 2018. The panel was not satisfied that the information available at the later stage had been shown to be identical to the information available to Mr Johnson on 1 March 2018. In particular, there was insufficient evidence to establish that Mr Johnson had received or viewed the photographs or video material subsequently relied upon. The panel therefore considered that it would be unsafe to use the nature or speed of the later safeguarding response retrospectively to determine what action Mr Johnson was required to take on the basis of the information actually available to him at the earlier date.

79. The panel also considered Ms Brown's submission that it would be speculative to conclude that, had Ms O'Connor been informed of the concerns, she would necessarily have acted upon and recorded them. The panel considered that it should avoid speculation in either direction. It was neither necessary nor appropriate for the panel to determine why a record of the alleged discussion had not been identified or to speculate as to whether competing managerial priorities might explain the absence of subsequent action or documentation. The relevant question remained whether Social Work England had proved, on the balance of probabilities, that Mr Johnson failed to take the appropriate action alleged. The panel concluded that the available evidence did not enable it safely to make that finding.
80. The panel also had regard to the positive professional evidence relied upon on Mr Johnson's behalf, including references concerning his professional practice and employment history. The panel recognised that this evidence formed part of the material before it and considered it in the round. However, the panel did not regard that evidence as determinative of whether Allegation 1 was proved and did not place significant weight upon it in reaching its finding. The panel's decision on Allegation 1 was based upon its assessment of the evidence relating to the events in question and whether Social Work England had discharged the burden of proving the particular factual allegation on the balance of probabilities.
81. Standing back and considering the evidence as a whole, the panel was satisfied that safeguarding concerns were raised during the Team Around the Child meeting on 1 March 2018 and that Mr Johnson was aware of them. The contemporaneous evidence also demonstrated that an urgent Child in Need meeting was considered necessary and was arranged for 22 March 2018. Mr Johnson maintained that he had additionally discussed the concerns with Ms O'Connor, which was the course of action Ms O'Connor herself identified as that which she would have expected of him. Ms O'Connor could not recall whether that discussion had occurred and did not positively dispute Mr Johnson's account. There was no sufficiently complete contemporaneous documentary evidence capable of resolving that issue. Nor was the panel satisfied that Social Work England had established that Mr Johnson had received or viewed the photographs or video material subsequently relied upon, or that a further specific safeguarding action which it was Mr Johnson's responsibility to undertake had been identified and left undone.
82. The panel considered that to move from the absence of a record of the discussion with Ms O'Connor to a finding that the discussion did not occur, and from there to a finding that Mr Johnson failed to take appropriate action and thereby failed to safeguard Service User 1, would require the panel to fill material evidential gaps by inference which was not sufficiently supported by the evidence.
83. Accordingly, having considered all of the evidence in the round, the panel was not satisfied, on the balance of probabilities, that Social Work England had proved that Mr Johnson failed to safeguard Service User 1 by failing to take appropriate action(s)

following the concerns raised during the Team Around the Child meeting on 1 March 2018.

84. The panel therefore found Allegation 1 **not proved**.

85. The panel next considered Allegation 2, namely that:

“On or around 5 March 2018 you claimed that you had visited Service User 3 at the Care Home when you had not.”

86. The panel reminded itself that the burden of proving the allegation rested throughout upon Social Work England and that Mr Johnson was not required to disprove the allegation or establish an alternative explanation for the evidence. The panel applied the civil standard of proof and considered whether, on the evidence before it, it was more likely than not that Mr Johnson had made the particular representation alleged.

87. The panel carefully considered the oral and documentary evidence together with the submissions made by Ms Mustard on behalf of Social Work England and Ms Brown on behalf of Mr Johnson. At the outset, the panel considered it important to distinguish between two separate factual questions: whether Mr Johnson had undertaken the required placement visit to Service User 3 at Woodview and whether, during the pod supervision on or around 5 March 2018, he claimed that he had undertaken such a visit. The allegation before the panel concerned the latter. It was not alleged under Allegation 2 simply that Mr Johnson had failed to undertake the required placement visit.

88. In relation to the first question, the panel was satisfied that Mr Johnson had not undertaken the required placement visit. The documentary evidence demonstrated that a visit to Service User 3 at the placement was required and that Mr Johnson was aware of that requirement. The panel noted that there were records of Mr Johnson having visited Service User 3 at home but no corresponding contact record demonstrating that he had visited Service User 3 at Woodview. Mr Johnson subsequently confirmed that he had not undertaken the placement visit. The panel was therefore satisfied that the required placement visit had not occurred.

89. That finding did not, however, determine Allegation 2. Social Work England was required to prove that, on or around 5 March 2018, Mr Johnson had claimed that he had visited Service User 3 at the care home when he had not. The panel therefore examined carefully the evidence relied upon as establishing that representation.

90. The principal documentary evidence was the pod supervision record containing the entry “last visit to placement December 2017”. The panel accepted that, read at face value, this entry was capable of indicating that a placement visit had occurred in December 2017. However, the panel considered the provenance of that entry to be important. The entry had not been written or entered by Mr Johnson. It had been recorded by a team coordinator following the discussion during the pod supervision. The panel had not been provided with the contemporaneous handwritten notes from which the record was produced, the team coordinator responsible for making the record could not be identified, and that individual had not given evidence about what Mr

Johnson had said, how the information had been expressed or how the entry came to be recorded in that form.

91. The panel also noted that the pod supervision record did not contain any direct quotation or express statement attributed to Mr Johnson that he had visited Service User 3 at Woodview in December 2017. Nor did it contain any description by Mr Johnson of matters which he said he had personally observed during such a placement visit. Although Woodview and Service User 3's respite arrangements were discussed within the supervision record, the panel did not consider that this established that Mr Johnson had claimed to have undertaken a placement visit there.
92. The panel considered this particularly relevant because the evidence demonstrated that Mr Johnson had seen Service User 3 at home and that Service User 3's respite arrangements at Woodview were also matters discussed in relation to the case. Ms Brown submitted that the wording in the supervision record could therefore have arisen through the recording process rather than from a representation by Mr Johnson that he had visited Woodview. The panel did not make a positive finding that this was how the inaccurate entry arose. It considered, however, that the available evidence did not enable it safely to exclude an error, misunderstanding or miscommunication in the recording process and thereby conclude that the wording accurately reflected a claim made by Mr Johnson.
93. The panel took account of Ms O'Connor's evidence that, following the pod supervision, she contacted Woodview and asked for the signing-in records for December to be checked in order to establish whether Mr Johnson had visited the placement. The panel accepted that this supported Social Work England's submission that Ms O'Connor had understood from the information arising from the pod supervision that Mr Johnson may have undertaken a placement visit in December 2017. However, the panel considered that Ms O'Connor's understanding, and her subsequent action in seeking to verify the position, did not establish precisely what Mr Johnson had said during the supervision or that he had himself claimed to have undertaken such a visit. In circumstances where the critical entry had been made by a third party, the underlying notes were unavailable and the person who made the entry could not be identified or questioned, the panel considered that there remained a material evidential gap between Ms O'Connor's understanding of the information recorded and proof that Mr Johnson had made the particular representation alleged.
94. The panel also considered the contemporaneous management record dated 12 March 2018. That record documented that Mr Johnson confirmed that he had not seen Service User 3 at Woodview since June and that he could not explain why the information provided during pod supervision had been inaccurate. The panel noted that, when the discrepancy was raised with him, Mr Johnson did not maintain that he had undertaken the placement visit or seek to challenge the information obtained from Woodview. This did not establish how the inaccurate entry had originally arisen and did not, of itself, demonstrate that Mr Johnson had not made the claim alleged on 5 March 2018. It was

nevertheless a relevant part of the contemporaneous evidence which the panel considered alongside the other evidence.

95. The panel also considered Ms O'Connor's later evidence that she had challenged Mr Johnson concerning his honesty, referred him to the HCPC standards and that Mr Johnson had apologised and said that he did not know what he had been thinking. The panel noted, however, that those more serious matters were not recorded in Ms O'Connor's contemporaneous management note of 12 March 2018 because she felt it was inappropriate to include this in the service user's case file, nor was there evidence that it was recorded in Mr Johnson's personnel file. Ms O'Connor was unable independently to recall the substance of the discussion after the passage of approximately eight years or to explain with certainty why those matters were absent from her contemporaneous record. The panel did not regard this as undermining Ms O'Connor's evidence generally, but considered that caution was required before relying upon her later account as proof that Mr Johnson had made the particular claim alleged.
96. The panel also considered the wider contemporaneous management response. It noted that the record made at the time did not expressly identify the matter as one in which Mr Johnson had knowingly made a false claim that he had visited Service User 3 at Woodview, nor was there evidence that such a concern was referred to his employment agency at that time. The panel did not consider that the absence of such documentation or referral established that the allegation was untrue. However, given the nature of the allegation subsequently advanced, it was a relevant feature of the contemporaneous evidence when assessing whether Social Work England had proved the particular representation alleged.
97. The panel further considered the limitations in the subsequent investigation. The evidence available to the panel did not include the investigation methodology or supporting documents, but did include a letter of the investigation outcome sent to Service User 1's mother. It therefore did not include the underlying contemporaneous material which might have established precisely how the pod supervision entry had been created. There was no evidence from the team coordinator who made the entry and no contemporaneous source material recording the words actually used by Mr Johnson. The panel also took account of the evidence concerning the extent of Mr Johnson's opportunity to respond during the subsequent investigation. The panel did not treat any limitation in the investigation as evidence that Mr Johnson had not made the claim alleged. Its significance was confined to the nature and completeness of the evidence ultimately available to the panel when determining whether Social Work England had discharged its burden of proof.
98. The panel took account of the fact that Mr Johnson knew that a placement visit was required and that it was overdue. It recognised Social Work England's submission that this formed part of the circumstances from which the alleged representation could be inferred. However, the fact that Mr Johnson knew that the visit was required, and knew that it had not been undertaken, did not itself establish that he subsequently claimed that he had undertaken it. The panel considered that it could not move from knowledge

of the outstanding visit to a finding that Mr Johnson must therefore have made the representation alleged without sufficient evidence establishing that he had in fact done so.

99. The panel also had regard to the positive professional evidence and employment history relied upon on Mr Johnson's behalf because that material formed part of the evidence before it. However, the panel placed no material weight upon that evidence when determining Allegation 2. Its decision was based upon its assessment of the evidence relating to the alleged representation on or around 5 March 2018 and whether Social Work England had proved that particular factual allegation on the balance of probabilities.
100. Having considered the evidence in the round, the panel was satisfied that the pod supervision record contained inaccurate information concerning the date of the last placement visit and that Mr Johnson had not undertaken the required placement visit to Service User 3 at Woodview. What the evidence did not establish with sufficient reliability was how the inaccurate entry came to be made or, critically, that it resulted from Mr Johnson claiming that he had undertaken such a visit. An administrative recording error, misunderstanding or miscommunication remained a reasonably possible explanation on the evidence. Equally, the panel recognised that it was possible that the entry accurately reflected information communicated by Mr Johnson. The panel was not required, however, to resolve the matter by selecting between possibilities unless Social Work England had established that its case was more likely than not. On the evidence before it, the panel was not satisfied that it had done so.
101. The panel was mindful that Mr Johnson was not required to establish how the inaccurate entry arose or to prove an alternative explanation. The burden remained throughout upon Social Work England to establish that Mr Johnson made the particular claim alleged. In the absence of sufficiently reliable evidence establishing the provenance of the supervision entry or what Mr Johnson actually said during the pod supervision, the panel concluded that the entry, even when considered together with Ms O'Connor's evidence, her subsequent enquiries of Woodview and the surrounding circumstances, was insufficient to discharge that burden.
102. Standing back and considering all of the evidence, the panel was satisfied that Mr Johnson had not undertaken the required placement visit to Service User 3 at Woodview and that he knew that such a visit was required. Those findings did not, however, establish the factual particular contained within Allegation 2. The issue for the panel was not whether the visit had occurred, but whether Social Work England had proved that Mr Johnson had claimed that it had occurred. The panel was not satisfied, on the balance of probabilities, that on or around 5 March 2018 Mr Johnson claimed that he had visited Service User 3 at the care home when he had not. The evidential gap between the inaccurate entry recorded by a third party and proof of the particular claim alleged to have been made by Mr Johnson was such that the panel could not make the finding sought without speculation.

103. Accordingly, the panel found Allegation 2 **not proved**.
104. The panel next considered Allegation 3, namely that Mr Johnson's conduct at Allegation 2 was dishonest. Having found Allegation 2 not proved, there was no proven conduct upon which the allegation of dishonesty could be founded. It was therefore unnecessary for the panel to go on to consider whether the alleged conduct was dishonest. Accordingly, the panel found Allegation 3 **not proved**.
105. The panel had therefore found Allegations 1, 2 and 3 not proved. In the absence of any facts found proved against Mr Johnson, there was no basis upon which the panel could make a finding of misconduct or impairment of fitness to practise. Accordingly, the panel determined that Mr Johnson's fitness to practise was **not impaired**.

The Professional Standards Authority:

106. 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>.