Social worker: Jane Mahoney
Registration number: SW105783
Fitness to Practise
Final Hearing

Dates of hearing: 05, 06, 09, 12 & 13 October 2026

Hearing venue: Remote hearing

Hearing outcome: Allegations 1(c)(i), 1(c)(ii) and 2 found proved
Allegations 1(a)(i), 1(a)(ii), 1(b)(i), 1(b)(ii) and 3 found not proved
No statutory ground established

Introduction and attendees:

1. This is a hearing held under Part 5 of the Social Workers Regulations 2018 (the Regulations).

2. Ms Jane Mahoney (Ms Mahoney) attended and was represented by Ms Laura Sheridan (Ms Sheridan) of the British Association of Social Workers.

3. Social Work England was represented by Mr Matthew Kerruish-Jones (Mr Kerruish-Jones), instructed by Capsticks LLP.

4. The panel of adjudicators conducting this hearing (the panel) and the other people involved in it were as follows:

Adjudicators	**Role**
Alexander Coleman	Chair
C Anne Rice	Social worker adjudicator
Angela Duxbury	Lay adjudicator

Hearings team/Legal adviser	**Role**
Paul Harris	Hearings officer
Nazia Kauser	Hearings support officer
Jane Kilgannon	Legal adviser

5. The panel were provided with the following documentation:

    a. a hearing timetable (4 pages);

    b. a Statement of Case dated 1 September 2026 (16 pages);

    c. a witness statement bundle (31 pages);

    d. an exhibits bundle (455 pages);

    e. a Social Worker Response bundle (380 pages);

    f. a Service and Supplementary bundle (303 pages); and

    g. a Statement of Agreed Facts (5 pages).

Allegations:

Whilst registered as a Social Worker:

1. Between 1 October 2017 and 1 July 2018, you:

(a) Withdrew monies from Service User A's bank account on dates set out in Schedule 1 when:

i. You did not have appropriate permission to do so;

ii. You were aware that Service User A lacked capacity to manage her finances.

(b) Made out cheques in the name of Service User A on dates set out in Schedule 2, when:

i. You did not have appropriate permission to do so;

ii. You were aware that Service User A lacked capacity to manage her finances.

(c) Purchased for Service User A:

i. Alcohol; and/or

ii. Cigarettes.

2. You failed to make accurate records regarding your actions in respect of Paragraph 1.

3. Your conduct in respect of Paragraph 1 and/or Paragraph 2 was dishonest.

The matters outlined at Paragraphs 1 to 2 above amount to the statutory ground of misconduct and/or lack of competence or capability.

The matter outlined at Paragraph 3 above amounts to the statutory ground of misconduct.

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

<u>Schedule 1</u>

31 October 2017

23 November 2017

30 November 2017

27 December 2017

11 January 2018

19 January 2018

<u>Schedule 2</u>

6 March 2018

9 March 2018

Admissions:

6. 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".*

7. Following the reading of the allegations the panel Chair asked Ms Mahoney whether she admitted any of the allegations and whether she admitted that her fitness to practise is currently impaired.

8. On Ms Mahoney's behalf, Ms Sheridan informed the panel that Ms Mahoney admitted allegations 1(c)(i) and 1(c)(ii), denied allegations 1(a)(ii), 1(b)(ii) and 3, and that she neither admitted nor denied but put Social Work England to proof in relation to allegations 1(a)(i), 1(b)(i) and 2. In addition, Ms Mahoney did not admit that her fitness to practise is currently impaired.

9. On the basis that clear and unequivocal formal admissions had been made to allegations 1(c)(i) and 1(c)(ii), the panel found those matters proved by way of admission.

10. No other matters had been admitted. In line with Rule 32c(i)(a) of the Rules, the panel then went on to determine the disputed facts.

Agreed facts:

11. The Statement of Agreed Facts included the following:

> "*The Social Worker first registered as a social worker on 7 August 2015 [...]. The Social Worker has no previous adverse fitness to practise history.*
>
> *The Social Worker joined Wigan Council ("the Council") as a social worker on 5 September 2017. The Social Worker was allocated as Service User A's ("SUA") social worker on 7 September 2017.*
>
> *SUA was a vulnerable adult. She had poor mobility, arthritis, a history of depression, a history of excessive alcohol consumption, and physical health needs, which restricted her ability to leave her home. SUA has since died and could not be interviewed for these proceedings. [...]*
>
> *On 6 December 2017, the Social Worker conducted a mental capacity assessment of SUA and made a referral for a corporate appointee to manage SUA's finances. Documentation requesting appointeeship was sent to the Department for Work and Pensions on 11 January 2018. The appointeeship was made [...] on 28 February 2018.*
>
> *The Social Worker became involved in SUA's finances. She accepts that she withdrew monies from SUA's bank account, wrote cheques which SUA signed,*

and used SUA's monies to purchase items for SUA, including food, cigarettes and alcohol. A cheque relating to SUA's mortgage and payable to Halifax was returned by the bank. The returned cheque was in the sum of £2,898.96. When shown a copy during the Council's investigatory interview, the Social Worker accepted that she had written it.

In the Council's investigatory interview, the Social Worker admitted that she had purchased "half a bottle of brandy" and cigarettes for SUA.

The Social Worker kept a handwritten cash recording sheet at SUA's property for use by the care agency.

The Council's Client Finance team carried out an audit of SUA's finances. On 1 May 2018, the Adult Social Care team became aware, following the audit, that money belonging to SUA was recorded as unaccounted for. The initial reconciliation recorded £2,993.71 as unaccounted for. A later search located a batch of receipts, recorded as having a value of £2,607.50, in a plastic wallet at SUA's property. The later audit therefore recorded a substantially reduced unaccounted balance. The precise reduced figure is not consistently recorded in the documents. The figures appearing include approximately £386.21, £382.97, £386.67 and £382.67. [...]

The Social Worker resigned from the Council on 6 November 2018, before the planned disciplinary hearing, and the Council did not reach a final determination under its disciplinary procedure. [...]"

12. The Statement of Agreed Facts identified the factual matters that remain in dispute as follows:

"*Dishonesty is denied by the Social Worker. Allegation 3, including the Social Worker's state of knowledge or belief and whether her conduct was dishonest, is to be determined by the Panel.*

It is not agreed whether SUA lacked capacity to manage her finances at the material times, or whether and when the Social Worker knew that SUA lacked such capacity. The Social Worker's position is that SUA had, decision-specific capacity and consented to her assistance.

It is not agreed whether the Social Worker had appropriate permission or authority for the withdrawals and cheques, or whose permission was required. The Social Worker's position is that she acted with SUA's authority and, in relation to cheques, jointly with the finance officer.

It is not agreed that every specific withdrawal in Schedule 1 or every specific cheque in Schedule 2 is attributable to the Social Worker or occurred on the pleaded date. SWE's witnesses cannot speak to each individual transaction.

It is not agreed whether the Council's Service User Financial Procedures applied to social workers. The Social Worker's position is that they applied to staff in either care home roles or finance roles and not to her social work role".

Summary of evidence:

Mr Richard O'Brien

13. Mr Richard O'Brien (Mr O'Brien) provided a witness statement dated 16 April 2025 and attended the hearing to give oral evidence.

14. Mr O'Brien is a retired social worker. At the relevant times he was a registered social worker, employed as a Locality Manager for the Adult Social Care team at Wigan Council (the Council). He directly supervised Mrs Julie Condon (Mrs Condon), who was Ms Mahoney's line manager.

15. Mr O'Brien explained that Ms Mahoney's social worker role for the Council involved assessing and reviewing service user needs in line with the requirements of the Care Act 2014 and that the role involved providing support to vulnerable adults and undertaking structured and planned interventions to promote their wellbeing and independence.

16. On 1 May 2018 Mr O'Brien was contacted by Ms Kathryn Leigh (Ms Leigh), manager of the Council's Client Finance Team (CFT), raising concerns following an audit of Service User A's personal finances. Mr O'Brien then undertook a local disciplinary investigation. Through the investigation, Mr O'Brien reported that he discovered that:

    i. Ms Mahoney had assessed Service User A to "*lack full capacity*";

    ii. Ms Mahoney had been involved with Service User A's finances from "*many months prior to January 2018*";

    iii. Ms Mahoney was regularly using Service User A's debit cards to withdraw money from cashpoint machines, including to pay Service User A's mortgage;

    iv. Ms Mahoney had written cheques from Service User A's personal bank account, and on one occasion a cheque had been returned by the bank as invalid;

    v. Ms Mahoney had put in place a written log in Service User A's home where transactions in relation to finances were logged;

    vi. A sum of £386.67 could not be accounted for and the Council became liable for that sum; and

vii. Following a corporate appointeeship being put in place for Service User A, Ms Mahoney had provided the allocated Client Finance Officer with the PIN number for Service User A's personal bank account.

17. Mr O'Brien's view was that getting involved in the personal finances of a service user is outside of the remit of a social worker. As such, he asserted that Ms Mahoney was acting outside of Council policies and procedures in withdrawing money from Service User A's bank account, writing cheques on behalf of Service User A, and passing on a banking PIN number relating to Service User A's personal bank account. In addition, he asserted that the recording arrangements put in place by Ms Mahoney were inadequate because they were of insufficient quality to properly record income and expenditure. Further, he asserted that Ms Mahoney's record keeping was inadequate because it "*did not provide a full account of her interventions*".

18. Mr O'Brien's view was that if Ms Mahoney had concerns about Service User A's ability to manage her finances, best practice would have been to discuss it with her line manager, and convene a formal multi-disciplinary safeguarding meeting, so that proper and auditable procedures could be put in place by the Council's CFT.

19. Mr O'Brien stated that Ms Mahoney's actions may have been well-intentioned but were naïve and reckless. In his view, Ms Mahoney's actions put Service User A in a more vulnerable position than they already were in.

20. In response to cross-examination questions, Mr O'Brien accepted that:

    a. he could not identify any documentation to support his assertion that Ms Mahoney was visiting Service User A on a daily basis;

    b. there was evidence of Ms Mahoney writing cheques for Service User A to sign, but no evidence of Ms Mahoney signing those cheques herself;

    c. Ms Mahoney made an urgent referral of Service User A to the CFT;

    d. there was evidence indicating that a member of the CFT team knew about Ms Mahoney's involvement with Service User A's finances and knew that it was operating outside of the Council's policies and procedures but did not report it or take any action to stop it;

    e. he was not able to specify exactly which aspects of Council policies relating to service user finances had been allegedly breached by Ms Mahoney;

    f. capacity is decision-specific, and Ms Mahoney's documented concerns in relation to Service User A were about their lack of motivation in relation to managing their bills;

    g. Ms Mahoney undertook a mini-mental examination and, on the basis of the scoring from that, referred Service User A to a joint visit with a nurse and then a joint visit with her GP to further explore concerns around mental capacity;

h. his assertion that Ms Mahoney did not discuss her involvement in Service User A's finances with her line manager, Mrs Condon, was based upon a review of only one supervision note, and he did not interview Mrs Condon as part of the internal disciplinary investigation;

i. Mrs Condon must have been aware of Ms Mahoney's concerns about Service User A's finances because she would have had to authorise the mental capacity assessment produced by Ms Mahoney dated 6 December 2017;

j. there is evidence in the case records in respect of Service User A that Ms Mahoney did make a record of her involvement with Service User A's finances, for example, the note of telephone contact on 11 January 2018 in which Ms Mahoney has recorded "*Visit to [Service User A] at 4pm 11/01/2018 – and cash card used to take some money out of [Service User A's] account and added to her financial records in the home. Also purchased cigarettes and chocolate for [Service User A]*"; and

k. the 'My Support Plan' for Service User A dated 26 September 2018, at the section titled "*Making Decisions and having control over my day to day life*", stated that the mental health assessment team had advised that they "*do not have any concerns regarding [Service User A's] mental wellbeing or capacity and have recommended [their] GP prescribe some antidepressants to support her with her depression and closed [Service User A] from their service*".

Ms Leigh

21. Ms Leigh provided a witness statement dated 19 June 2026 and attended the hearing to give oral evidence.

22. Ms Leigh is, and was at the relevant times, the manager of the Client Finance team (CFT) at the Council.

23. Ms Leigh explained that there was a change in the member of Council staff acting as appointee for Service User A. The new appointee became aware that Ms Mahoney had been withdrawing cash from Service User A's personal bank account, using Service User A's bank card to make purchase of items, and writing cheques using Service User A's chequebook. They reported this to their line manager, Ms Karen Hunter (Ms Hunter). On 31 May 2018 Ms Hunter sent an email to Ms Leigh raising concerns about Ms Mahoney's involvement in Service User A's finances. The appointee conducted an audit. Initially she found that £2,993.71 was unaccounted for. However, after visiting Service User A's property and recovering receipts stored in a plastic wallet, she conducted a second audit. Following the second audit, the amount unaccounted for reduced to £386.21.

24. Ms Leigh stated that Ms Mahoney should not have been managing Service User A's finances in the way that she did, particularly in the period before Ms Mahoney made the appointeeship referral dated 6 December 2017. Ms Leigh stated that the appropriate

action to take where there are concerns about a service user's capacity to manage their finances is to make an appointeeship and/or deputyship referral to CFT, including a copy of the mental capacity assessment if lack of mental capacity is one of the reasons for the referral. She explained that an appointee can manage the receipt of benefits, payment of bills, and provision of cash for day to day expenses, whereas only a deputy can manage a service user's property interests. Ms Leigh confirmed that once a referral was made by a social worker to CFT, a member of that team would check that all of the correct information had been collated and then make the relevant application to the Department for Work and Pensions (DWP). There would usually then be a delay of at least nine weeks before any appointeeship or deputyship was approved and made operational.

25. Ms Leigh explained that where there was any gap in support for a service user whilst awaiting the outcome of an appointeeship application to DWP, there was occasionally recourse to a special fund or 'petty cash' to cover urgent day to day expenses such as food.

26. Ms Leigh commented that, in her view, Ms Mahoney's actions in relation to Service User A's finances were for the right reasons, in that she didn't want the service user to lose their home and she was doing her best to try and support them. However, in Ms Leigh's view, Ms Mahoney went about this in the wrong way and acted outside of Council policies and procedures. Ms Leigh indicated that Ms Mahoney was very upset during the disciplinary investigation interview, and struggled to recall events put to her.

27. In response to cross-examination questions, Ms Leigh accepted that:

    a. the Council used Service User A's bank statements to feed into the new appointee's audit without having obtained Service User A's authority to do so;

    b. the appointeeship referral form completed by Ms Mahoney and dated 6 December 2017 reported that:

        i. Service User A was previously assisted with managing her money by a friend, but that the friend has now "*taken a back seat*";

        ii. Service User A had outstanding debts in relation to their mortgage, council tax, water, telephone and TV;

        iii. Service User A was at risk of eviction due to mortgage arrears;

        iv. Ms Mahoney had made several cash withdrawals for Service User A over the past month and had set up a system for recording these and receipts where the care team have purchased shopping for Service User A;

    c. because she only looked at one set of supervision notes between Ms Mahoney and Mrs Condon, she could not say whether there was any record

in other supervision notes of Ms Mahoney making withdrawals and writing cheques for Service User A;

d. Mrs Condon was not interviewed as part of the Council's internal disciplinary investigation;

e. the appointeeship referral form was authorised by Ms Mahoney's Advanced Practitioner line manager, Mrs Condon;

f. the CFT submitted the appointeeship application to DWP on 11 January 2018;

g. due to the contents of the appointeeship referral form, both Mrs Condon and the CFT would have been aware by the date of that form (6 December 2017) that Ms Mahoney had been making cash withdrawals for Service User A, had put in place a recording system for withdrawals and receipts, and had concerns about Service User A's debts and risk of eviction.

h. the second appointee, during her disciplinary investigation interview, stated that the first appointee had thrown away receipts at Service User A's property.

28. In response to questions from the panel, Ms Leigh stated that:

a. she could not recall the date when Service User A's appointeeship became operational;

b. although the appointeeship referral for Service User A was dated 6 December 2017, the application was not made to DWP until 11 January 2018, and that was probably because the CFT receive around 15 referrals a week and that this referral was received around the Christmas period.

Mrs Condon

29. Mrs Condon provided a witness statement dated 22 October 2025 and attended the hearing to give oral evidence.

30. Mrs Condon is a registered social worker. At the relevant times she was employed as an Advanced Practitioner for the Council, and was Ms Mahoney's line manager.

31. Mrs Condon stated that she had provided all records of her supervisions with Ms Mahoney to Mr O'Brien for his internal disciplinary investigation.

32. Mrs Condon stated that Ms Mahoney did not have her permission to act as a financial representative for any service user. She said that it would be entirely inappropriate for a social worker to act in that way.

33. In relation to Ms Mahoney's actions in withdrawing cash from Service User A's personal bank account and writing cheques for Service User A to sign, Mrs Condon stated that these actions breached a number of professional standards, putting both Ms Mahoney and Service User A in a difficult position, and risking confusing Service User A as to the

limits of Ms Mahoney's role as their allocated social worker. Mrs Condon said that she thought that Ms Mahoney acted in good faith, but that she should not have managed Service User A's finances as she did. She should have instead raised concerns with her line manager and sought support from the Council's appointee team.

34. In response to cross-examination questions, Mrs Condon accepted that:

    a. she recalled some social workers raising concerns about case records that they had written not having been saved or transferred across when the new 'Mosaic' case recording system was introduced;

    b. she provided Mr O'Brien with around four or five, and definitely more than one, supervision notes from her supervision sessions with Ms Mahoney;

    c. she vaguely recalled Ms Mahoney saying that she was frustrated with how long it was taking for appointeeship referrals to be processed at the relevant times;

    d. the period between making an appointeeship referral and the appointeeship being put in place and operational was very difficult, with no specific Council policy covering that period and social workers just having to do what they could for service users within their remit as social workers;

    e. she had authorised the appointeeship referral form, which would have been accompanied by the mental capacity assessment form, completed by Ms Mahoney for Service User A dated 6 December 2017, but did not recall either form or their contents given the passage of time since then.

35. In response to questions from the panel, Mrs Condon stated that:

    a. given that she had authorised the appointeeship referral form for Service User A dated 6 December 2017 which provided details of Ms Mahoney's involvement in managing the finances of Service User A, it is possible that Ms Mahoney had believed that she had Mrs Condon's approval to continue to manage Service User A's finances in the ways set out in that form;

    b. she would have expected Ms Mahoney to mention any involvement with the finances of Service User A to her as her line manager, but has no recollection of her doing so.

Ms Mahoney

36. Ms Mahoney provided a number of documents setting out her response to the allegations – these included an email dated 28 February 2023, an undated 'reflective statement', and a witness statement dated 14 September 2026. She also attended the hearing to give oral evidence.

37. In terms of background, Ms Mahoney explained that when she started working for the Council she had around two years' experience as a registered social worker. She immediately found that she was allocated a large and complex workload, as well as

being required to undertake 'duty work' and provide support for social work colleagues in her team, the majority of which were newly qualified social workers. Although she was provided with regular supervision, Ms Mahoney stated that it was limited in terms of time and the number of cases that could be discussed.

38. Ms Mahoney stated that when she was allocated to Service User A, she found that a friend of Service User A had been helping her to manage both her day to day grocery shopping and the payment of her bills. However, that friendship broke down and so the support was withdrawn, Furthermore, in January 2018 that friend died unexpectedly. Ms Mahoney stated that she was concerned for Service User A's wellbeing in a number of respects. Her living arrangements were unsuitable, in particular in relation to her sleeping and toileting needs. In addition, as she was housebound due to physical disabilities, Service User A was unable to go out and buy her own groceries. And furthermore, Ms Mahoney noticed that Service User A was allowing letters and bills to pile up unopened, leaving her at risk of her utilities being cut off and being evicted from her home.

39. Ms Mahoney stated that she drew on her prior experience as a care worker supporting vulnerable adults in their homes – putting in place a system of carers to support Service User A with her on a daily basis, including an A5 ring binder paper recording system kept at Service User A's home to record when Ms Mahoney withdrew cash on behalf of Service User A and when the carers used that cash to make grocery purchases on behalf of Service User A. She stated that this was all done with Service User A's consent. Ms Mahoney stated that she had concerns about Service User A's mental wellbeing, understanding that she had a diagnosis of depression, a history of alcoholism and was "devastated" at the sudden death of her friend in January 2018. She explained that, after observing Service User A's lack of motivation to open her letters and bills, she undertook a mental capacity assessment and made a referral for a corporate appointeeship.

40. In relation to Service User A's capacity at the relevant times, Ms Mahoney stated:

> "*I did refer for a Corporate Appointee as [Service User A] was unable to carry out all of the activities to manage her finances, primarily as outlined in the application due to her physical needs. In accordance with the MCA 2005, I would always presume capacity, and although I had some concerns over her mental capacity, as outlined in the application for corporate appointee, there was no diagnosis in place and I felt that the lack of motivation to manage finances could have been a temporary exacerbation which I felt needed exploring medically. As such I had contact the GP, and made referrals to the memory team in order to support her further, at the time of the allegations there was no diagnosis in place which would affect her mental capacity. [...] In addition, the concerns I had regarding her mental capacity were not so significant as to prevent all decision making, the guidelines of the MCA 2005 outline that capacity is decision specific, and in this case, Service User A was fully able to make decisions around what she wanted*

from the shops, and that she wanted her bills to be paid, and she fully understood that she needed cash taken out to achieve this".

41. Ms Mahoney stated that she was a talkative member of the team, and that she would have been talking to Mrs Condon, her line manager, and other members of the team about Service User A at the relevant times. In particular, she says that she would have been talking about the time pressures upon her in having to make the bank withdrawals to ensure that Service User A's carers had cash to purchase her groceries whilst they were waiting for the appointeeship to be approved and become operational.

42. Ms Mahoney stated that when the appointeeship was put in place, she visited Service User A's home with the initial appointee in early March 2018. She stated that it was the appointee who suggested using Service User A's chequebook to allow them to assist Service User A in making a mortgage payment. She said that Service User A asked Ms Mahoney to write the words on the cheque as her writing was "shaky", but that Service User A was able to sign the cheque herself. Ms Mahoney stated that at no point did the appointee suggest that there was anything problematic about how they were dealing with this issue. On the contrary, it was their idea and they were present and involved in it.

43. In relation to the Council's audits of the cash withdrawals and cheques finding that monies were unaccounted for, Ms Mahoney pointed out that the appointee had stated during the Council's disciplinary investigation interview that she had withdrawn money from Service User A's bank account but had not recorded this in the recording sheets at Service User A's home. Ms Mahoney also reviewed the Council's audit documents and queried their findings. She stated that between 30 November 2017 and 19 January 2018 it appeared that £562.97 had been spent, and yet only £200.00 cash had been withdrawn. Given that discrepancy, Ms Mahoney challenged the Council's conclusion that there was money unaccounted for. Her interpretation was that there appeared to be an absence of records in relation to cash withdrawals totalling £362.97, but not that there were any missing records in relation to when and how that money was actually spent. Ms Mahoney asserted that when she handed over the paper records to the initial appointee, the withdrawals and receipts "all did tally".

44. In relation to record-keeping, Ms Mahoney stated that her approach is not to provide very detailed notes but to stick to the salient points. She stated that it was "possible that omissions may have occurred" but stated that she tried her very best, had never received any negative feedback about her record-keeping, and she also flagged that the Council had introduced a new record management system at the relevant time which had resulted in a number of social workers reporting records that were made going missing from the system. Ms Mahoney stated that it never crossed her mind that she was doing anything wrong.

45. In response to cross-examination questions, Ms Mahoney accepted that:

    a. Service User A had given her the bank card for her personal bank account, along with her PIN number;

b. Prior to making any cash withdrawals on behalf of Service User A, she should have spoken to her line manager about it and asked them for advice;

c. She purchased the alcohol for Service User A because she thought that Service User A had capacity to decide about this, she was in "*a really bad place*" after the death of her friend, and "*it wasn't my place to stop her from drinking alcohol*";

d. On the mental capacity assessment form that Ms Mahoney completed in relation to Service User A on 6 December 2017, Ms Mahoney:

   i. Circled a box indicating "Temporary impairment", providing the following details "[*Service User A] is also presenting with symptoms of a mental impairment however due to alcoholism and resistance to engage a formal diagnosis has not been made – I have arranged for a joint visit with the GP for [Service User A] to explore the cognitive issues*";

   ii. Ticked a box indicating "*I have completed my assessment. I can confirm that I have assessed the person named on this form and determined that they lack capacity relating to the specific decision named in section 3 of this form*";

e. In a case record dated 24 November 2017 Ms Mahoney had stated *"[Service User A] is very low in mood/and is showing signs of cognitive decline [...]*";

f. Ms Mahoney did not record each cash withdrawal from Service User A's bank account in the Council's 'Mosaic' records system, only in the paper records kept at Service User A's home.

46. In response to panel questions, Ms Mahoney stated that:

a. When she started working at the Council, she received a couple of days of induction training but does not recall any of that training relating to assessments under the Mental Capacity Act 2005;

b. Following her completion of the mental capacity assessment form and the corporate appointee referral form in relation to Service User A, both dated 6 December 2017, no colleagues at the Council challenged or raised any queries about what was written in those forms;

c. No colleague at the Council suggested reviewing the 6 December 2017 mental capacity assessment for Service User A in the period between that date and the appointeeship being put in place on 28 February 2018;

d. If she had not assisted Service User A by purchasing cigarettes and alcohol for her, and setting up the system for carers to buy her groceries, Service User A would probably have crawled into the street and asked someone else to help her;

e. Ms Mahoney worked from an open plan office at the Council, was an outgoing person and chatted to colleagues about her cases "*all the time*". However, none of her colleagues ever challenged her about how she was dealing with Service User A's case.

Finding and reasons on facts:

47. The panel took account of all of the documentary evidence, oral evidence and the submissions from both parties.

48. The panel accepted the advice of the legal adviser, which included the following:

    a. The burden of proof is on Social Work England to prove the disputed factual allegations; and

    b. The standard of proof is the civil standard – the balance of probabilities.

Assessment of the witnesses

49. The panel found that the Social Work England witnesses, Mr O'Brien, Ms Leigh and Mrs Condon, each provided clear and detailed evidence. Due to the passage of time since the events in question, it was understandable that they could not recall precise details without reference to contemporaneous documentation. The panel noted that where their recollections differed from what was provided in the contemporaneous documentation, they made reasonable concessions. Given that their evidence had been provided under affirmation, tested under cross-examination, and they made reasonable concessions where there were conflicts between their own recollection and contemporaneous records, the panel found their evidence to be credible and reliable and therefore placed significant weight upon it.

50. The panel likewise found that Ms Mahoney provided clear and detailed evidence. Due to the passage of time since the events in question, it was understandable that she could not recall precise details without reference to contemporaneous documentation. The panel noted that where her recollection differed from what was provided in the contemporaneous documentation, she made reasonable concessions. Given that her evidence had been provided under affirmation, tested under cross-examination, and she made reasonable concessions where there were conflicts between her own recollection and contemporaneous records, the panel found her evidence to be credible and reliable and therefore placed significant weight upon it.

Allegations 1(a)(i) and 1(a)(ii) – Not proved

51. The panel noted that it was admitted that between 1 October 2017 and 1 July 2018 Ms Mahoney withdrew monies from Service User A's bank account. However, it was not admitted that she had done so on every date listed at Schedule 1. Furthermore, the key issues in dispute were whether Ms Mahoney had the appropriate permission to make

the withdrawals and whether Ms Mahoney was aware that Service User A lacked capacity to manage her finances.

52. The panel carefully considered the dates set out at Schedule 1 and the documentary evidence available. On the balance of probabilities, the panel found that Ms Mahoney made the following cash withdrawals because there was contemporaneous documentary evidence showing that she had signed corresponding receipts:

    a. The cash withdrawal of £200.00 on 31 October 2017 – Ms Mahoney's signature is on a "*Post Office Ltd*" receipt relating to this withdrawal;

    b. The cash withdrawal of £40.00 on 23 November 2017 - Ms Mahoney's signature is on a "*Note Machine ATM*" receipt relating to this withdrawal;

    c. The cash withdrawal of £250.00 on 11 January 2018 – a bank statement shows this withdrawal, and on 12 January 2018 Ms Mahoney made a case record reporting that she had made a cash withdrawal from Service User A's account on 11 January 2018;

    d. The cash withdrawal of £200.00 on 19 January 2018 - Ms Mahoney's signature is on a "*Post Office Ltd*" receipt relating to this withdrawal.

53. However, in relation to the remaining two withdrawal dates – 30 November 2017 and 27 December 2017, the panel noted that receipts had been provided but that they were not signed by anyone, including by Ms Mahoney. Therefore, in respect of those alleged withdrawals, the panel found that Social Work England had not proved to the required standard that it was Ms Mahoney that made those specific withdrawals, as opposed to someone else.

54. With reference to the Mental Capacity Act 2005 and its corresponding Code of Practice, the panel noted that:

    a. The starting assumption must always be that a person has the capacity to make a decision, unless it can be established that they lack capacity;

    b. A person's capacity must be assessed specifically in terms of their capacity to make a particular decision at the time it needs to be made;

    c. Anyone assessing someone's capacity to make a decision for themselves should use the two-stage test of capacity:

        i. Does the person have an impairment of the mind or brain, or is there some sort of disturbance affecting the way their mind or brain works?

        ii. If so, does that impairment or disturbance mean that the person is unable to make the decision in question at the time it needs to be made?

55. On the balance of probabilities, the panel found that Service User A did not lack capacity to "manage her finances" at the relevant times, but that she did temporarily

lack capacity to make decisions about opening her letters and bills. In coming to that conclusion, the panel had particular regard to the following:

a. although Ms Mahoney had ticked a box on the appointee referral form saying that Service User A "*lacked capacity*", the panel noted that the exact wording used on the form was "*lacked capacity relating to the specific decision named in section 3 of this form*" and, although the version of the form provided to the panel did not include numbered sections, the decision named at section 3 appeared to be *"[Service User A] has no interest in [redacted] letters or money, [redacted] friend [redacted] has been helping with [redacted] finances until recently, [redacted] has had to take a step back from supporting [Service User A] due to [Service User A] adding additional responsibilities to this role. Letters remain unopened by [Service User A] and attempts to get [redacted] to take an interest have been rebuffed [...] To apply for corporate appointee*". That indicated to the panel that Ms Mahoney's assessment that Service User A lacked capacity was limited to decisions around opening letters relating to bills / finances;

b. the further contextual information that Ms Mahoney provided on the appointee referral form was consistent with an understanding that Ms Mahoney had assessed Service User A's lack of capacity as relating only to a lack of motivation to open letters containing bills and was not a general lack of capacity to manage all of her financial decision-making;

c. there was evidence in the case records indicating that Service User A had been managing all of her financial decisions in the period prior to the period in question, by instructing her friend to take actions on her behalf;

d. there was evidence indicating that Service User A was making clear and rational decisions about how to spend her money on day to day items during the period in question, in that she was instructing her friend, Ms Mahoney and her carers to buy shopping and other items on her behalf;

e. the My Support Plan dated 26 September 2018 indicated that following the mental health services assessment, the mental health assessment team did not have any concerns regarding Service User A's 'mental wellbeing or capacity'.

56. Given that Service User A did not lack capacity to "manage her finances" in a general sense on the dates of the four bank withdrawals (31 October 2017, 23 November 2017, 11 January 2018 and 19 January 2018), the panel found that Social Work England had not proved that Ms Mahoney was aware that Service User A lacked capacity to manage her finances at the relevant times.

57. Furthermore, given that Service User A's assessed lack of capacity at the relevant times related only to opening letters and bills, the panel found that – on the balance of probabilities - Service User A had capacity to make decisions about withdrawing money

from her own bank account for day to day spending. Service User A was therefore able to give permission to Ms Mahoney to make such withdrawals at the relevant times.

58. The panel accepted Ms Mahoney's unchallenged evidence that Service User A had asked her to make the cash withdrawals in question in order to ensure that there was money available to make purchases to meet her day to day expenses such as for groceries and cigarettes.

59. Taking all of these findings into account, the panel concluded that when Ms Mahoney made the bank withdrawals on 31 October 2017, 23 November 2017, 11 January 2018 and 19 January 2018, she did so with appropriate permission. This was because she had the permission of Service User A, who had the mental capacity to give that permission.

60. Accordingly, the panel found allegations 1(a)(i) and 1(a)(ii) not proved.

Allegations 1(b)(i) and 1(b)(ii) – Not proved

61. The panel noted that it was admitted that between 1 October 2017 and 1 July 2018 Ms Mahoney made out cheques in the name of Service User A on the dates set out in Schedule 2, namely 6 March 2018 and 9 March 2018. The key issues in dispute were whether Ms Mahoney had the appropriate permission to make out the cheques and whether Ms Mahoney was aware that Service User A lacked capacity to manage her finances.

62. The panel noted that it was not in dispute that the cheques in question were as follows:

    a. A cheque from Service User A's bank account, dated 6 March 2018, for £2,898.96 and signed by Service User A – a copy of which was available to the panel because it had been returned unpaid by the bank; and

    b. A cheque from Service User A's bank account, dated 9 March 2018, for an unknown amount, made payable to Virgin Media, and signed by Service User A – a copy of which was not available to the panel because it had been accepted by Virgin Media in relation to a payment for TV services.

63. The panel referred to its earlier finding that Service User A did not lack capacity to manage her finances in a general sense, but did temporarily lack capacity to make decisions about opening her letters and bills between 31 October 2017 and 19 January 2018. Given that there was no documented review or re-assessment of Service User A's mental capacity in the intervening period indicating any change of circumstances, the panel found that it was more likely than not that this finding as to Service User A's mental capacity also applied on 6 March 2018 and 9 March 2018.

64. The panel accepted Ms Mahoney's unchallenged evidence that the initial appointee had been present when she wrote these cheques and, indeed, had themselves proposed it. It also accepted Ms Mahoney's unchallenged evidence that Service User A had asked her to write the cheques for her due to her shaky writing. The panel accepted Ms Mahoney's assessment that Service User A had capacity to sign the cheques at

issue, and therefore Ms Mahoney believed that she was acting with Service User A's consent.

65. Taking all of these findings into account, the panel concluded that when Ms Mahoney made out the cheques dated 6 March 2018 and 9 March 2018, she did so with appropriate permission. This was because she had the permission of Service User A, who had the mental capacity to give that permission. The panel also found that it was reasonable to infer that Ms Mahoney had the permission of the initial appointee, given that they had proposed the use of the cheques to pay Service User A's bills, had been present when Ms Mahoney made out the cheques, had been present when Service User A signed the cheques, and had given no indication to Ms Mahoney or recorded or reported elsewhere any concerns as to that course of action.

66. Accordingly, the panel found allegations 1(b)(i) and 1(b)(ii) not proved.

Allegation 2 – Proved

67. The panel noted that this allegation was that Ms Mahoney had failed to make accurate records regarding her actions in respect of Paragraph 1, that is the bank withdrawals, making out cheques and the purchase of alcohol and cigarettes for Service User A.

In relation to the bank withdrawals

68. In respect of Ms Mahoney's alleged actions at allegation 1(a), the withdrawal of monies from Service User A's bank account on 31 October 2017, 23 November 2017, 11 January 2018 and 19 January 2018, the panel noted that there were very limited contemporaneous case records showing that Ms Mahoney had recorded that she had made each of these bank withdrawals for Service User A. The panel accepted that Ms Mahoney had put in place a paper recording system at Service User A's home that recorded each of the cash withdrawals and the purchases made with the cash. It also noted that Ms Mahoney referred to these withdrawals, and the paper recording system that she had set up, in the corporate appointee referral form dated 6 December 2017, which was authorised by her line manager Mrs Condon. The panel was therefore satisfied that Ms Mahoney was not in any way seeking to hide her actions in making these cash withdrawals for Service User A. However, it found that without comprehensive case notes about the withdrawals, the case notes omitted important information and in that respect they were inaccurate.

69. The panel accepted Ms Mahoney's evidence that the new case recording system in place at the relevant times may have failed to save some case records. This was supported by the oral evidence of Mrs Condon, who had a vague recollection of other social workers reporting such problems with the new system. However, the panel did not consider that context to be sufficient to explain the very limited nature of contemporaneous case records in relation to the bank withdrawals.

70. The panel therefore found that Social Work England had proved, on the balance of probabilities, that Ms Mahoney had failed to make accurate records in relation to her alleged actions at allegation 1(a).

In relation to the cheques

71. In respect of Ms Mahoney's alleged actions at allegation 1(b), the making out of cheques in the name of Service User A on 6 March 2018 and 9 March 2018, the panel noted that there were no contemporaneous case records showing that Ms Mahoney had recorded that she had made out these cheques for Service User A. On that basis, the panel found that Ms Mahoney had failed to make accurate records for Service User A because she had omitted an important piece of information from Service User A's case records.

72. The panel accepted Ms Mahoney's evidence that the new case recording system in place at the relevant times may have failed to save some case records. This was supported by the oral evidence of Mrs Condon, who had a vague recollection of other social workers reporting such problems with the new system. However, the panel did not consider that context to be sufficient to explain the absence of contemporaneous case records in relation to the cheques.

73. The panel therefore found that Social Work England had proved that Ms Mahoney had failed to make accurate records in relation to her alleged actions at allegation 1(b).

In relation to the purchase of cigarettes and alcohol

74. In respect of Ms Mahoney's admitted actions set out at allegations 1(c)(i) and 1(c)(ii), the purchase of alcohol and cigarettes for Service User A, the panel noted that there were contemporaneous case records showing that Ms Mahoney had recorded that she had purchased both cigarettes and alcohol for Service User A. For example, the case records dated 11 January 2018 and 5 April 2018. Given that there was documentary evidence of Ms Mahoney recording these purchases, and no evidence drawn to the panel's attention of any inaccurate recording in that regard, the panel found that Social Work England had not proved that Ms Mahoney had failed to make accurate records in relation to her actions at allegations 1(c)(i) or 1(c)(ii).

75. Accordingly, the panel found allegation 2 proved in respect of allegations 1(a) and 1(b), but not in respect of allegation 1(c).

Allegation 3 in respect of allegations 1(c)(i) and 1(c)(ii) – Not proved

76. The panel considered whether Ms Mahoney's conduct, in purchasing cigarettes and alcohol for Service User A was dishonest.

77. The panel applied the test for dishonesty set out in the case of *Ivey v Genting Casinos (UK) Limited* [2017] UKSC 67.

78. Applying the first stage of the test, the panel found that, at the relevant times, Ms Mahoney acted out of concern for Service User A's welfare. The panel noted that the contemporaneous case records indicated that Service User A was housebound due to physical disabilities and that she liked to smoke cigarettes and watch television. The records also indicated that Service User A had a history of alcoholism and had been distressed about the sudden death of her friend in January 2018. The panel accepted

Ms Mahoney's oral evidence that she assessed Service User A having capacity to make decisions about smoking and drinking alcohol, and that she believed that it was not her place to tell Service User A not to spend her money on these things because she was entitled to make unwise decisions if she wanted to. The panel also accepted Ms Mahoney's oral evidence that she was worried that if she did not make these purchases for Service User A, there was a risk that Service User A would crawl out onto the street and ask strangers to help her make the purchases which would put her in an even more vulnerable position.

79. Applying the second stage of the test, the panel found that Ms Mahoney's actions were not dishonest by the objective standards of ordinary decent people. Ms Mahoney had acted out of concern for the welfare of Service User A, had received no personal gain from her actions, and had been open and transparent about her actions by recording them in the case notes.

80. Accordingly, the panel found allegation 3 not proved in respect of allegations 1(c)(i) and 1(c)(ii).

Allegation 3 in respect of allegation 2 – Not proved

81. The panel considered whether Ms Mahoney's conduct, in failing to make accurate records in relation to the bank withdrawals and the cheques was dishonest.

82. The panel applied the test for dishonesty set out in the case of *Ivey v Genting Casinos (UK) Limited* [2017] UKSC 67.

83. Applying the first stage of the test, the panel found that, at the relevant times, Ms Mahoney acted out of concern for Service User A's welfare. The panel noted its earlier finding that the inaccuracies in the records arose from the omission of important information rather than the inclusion of inaccurate information. It also noted its earlier finding that Ms Mahoney had not deliberately tried to hide the missing information. Indeed, the panel accepted Ms Mahoney's oral evidence that she was under the impression at the relevant times that her colleagues at the Council were well aware that she was making these cash withdrawals and writing the cheques because she had made reference to the actions in certain documentation (for example, the corporate appointee referral form which had been authorised by her line manager, Mrs Condon), the initial appointee had been present when she made out the cheques and Ms Mahoney was in the habit of regularly talking to her team colleagues about her cases. The panel accepted Ms Mahoney's testimony that she had only wanted to 'do good'.

84. Applying the second stage of the test, the panel found that Ms Mahoney's actions were not dishonest by the objective standards of ordinary decent people. Ms Mahoney had acted out of concern for the welfare of Service User A and had received no personal gain from her record-keeping failures. The panel also noted that each of the Council's witnesses had stated that, in their opinion, although naïve, Ms Mahoney had acted with good intentions.

85. Accordingly, the panel found allegation 3 not proved in respect of allegation 2.

Finding and reasons on grounds:

86. On behalf of Social Work England, Mr Kerruish-Jones submitted that the conduct found proved breached standards 1.7, 6.1, 9.1, 10.1 and 10.2 of the HCPC Standards of Conduct, Performance and Ethics (2016).

87. Mr Kerruish-Jones submitted that the matters found proved demonstrated an unacceptably low standard of performance from Ms Mahoney, putting Service User A at an avoidable risk of harm. Mr Kerruish-Jones submitted that Ms Mahoney's unacceptably low standard of performance had been demonstrated across a fair sample of her work for the Council. He submitted that the conduct had persisted over a significant period of months, and could not be characterised as a single momentary lapse. He also submitted that the conduct found proved occurred despite Ms Mahoney receiving supervision and support from Council colleagues during the relevant period.

88. Mr Kerruish-Jones submitted that the matters found proved were so serious as to amount to misconduct. He submitted that the concerns related to fundamental aspects of the social work profession, persisted over a significant period of months, and placed Service User A at an avoidable risk of harm. Given this context, Mr Kerruish-Jones submitted that the conduct amounted to a serious departure from what was expected of a social worker in the circumstances.

89. On behalf of Ms Mahoney, Ms Sheridan submitted that the matters found proved amounted to neither a lack of competence or capability, nor misconduct.

90. Ms Sheridan submitted that, at the relevant times, Ms Mahoney was two-years' qualified, had a high and complex caseload, was expected to support more junior social work colleagues, and was given limited scope to discuss cases during supervision meetings. Ms Sheridan submitted that, when Ms Mahoney had purchased cigarettes and alcohol for Service User A , Service User A had capacity and was therefore entitled to make decisions about what to buy and consume, even unwise decisions. Ms Sheridan submitted that the alcohol purchased by Ms Mahoney for Service User A was one small bottle of brandy, and was purchased at the request of Service User A following the sudden death of her friend and after a conversation about her past difficulties with alcohol consumption and why she had decided to have a drink on this particular day. Ms Sheridan reminded the panel of Ms Mahoney's oral evidence that she was concerned that if she did not purchase the alcohol for Service User A, there was a risk that she would crawl out onto the street and scream for others to buy it for her, thereby putting her at greater risk of harm.

91. In relation to the record-keeping failures, Ms Sheridan asked the panel to bear in mind that Ms Mahoney was carrying a high and complex caseload, was operating under a new electronic recording system that was encountering technical problems with saving records, and was recording the bank withdrawals and cheques elsewhere – for example, in the appointee referral form dated 6 December 2017 and in the paper recording system in place at Service User A's property.

92. Ms Sheridan submitted that, given these circumstances, the matters found proved were not serious enough to amount to the statutory ground of misconduct, nor did they demonstrate an unacceptably low standard of performance so as to amount to the statutory ground of a lack of competence or capability.

93. The panel accepted the advice of the legal adviser which included that:

    a. A 'lack of competence or capability' is analogous to 'deficient professional performance', which was described by Jackson J in *Calhaem v General Medical Council* [2007] EWHC 2606 (Admin) as "*a standard of professional performance which is unacceptably low and which [...] has been demonstrated by reference to a fair sample of the [practitioner's] work*".

    b. Misconduct is an act or omission that falls short of what would be proper in the circumstances. Not every breach of professional standards will amount to the statutory ground of misconduct. It must be a sufficiently serious breach.

94. The panel first considered whether the matters found proved amounted to the statutory ground of a lack of competence or capability.

95. The panel was not satisfied that the matters found proved represented a fair sample of Ms Mahoney's work for the Council. They related to two discrete matters – the purchase of cigarettes and alcohol for Service User A, and a record-keeping failure in respect of bank withdrawals and cheques for Service User A. They related to a single service user only. The panel accepted Ms Mahoney's unchallenged evidence that, at the relevant times, she was allocated a large and complex caseload in addition to duty social worker responsibilities. The matters found proved therefore represented only a small fraction of the work undertaken by Ms Mahoney for the Council and could not be said to represent a fair sample of her work at the relevant times.

96. The panel therefore concluded that the matters found proved did not amount to the statutory ground of lack of competence or capability.

97. The panel next considered whether the matters found proved amounted to the statutory ground of misconduct.

98. The panel was not satisfied that the conduct found proved amounted to a serious departure from what would be expected of a registered social worker in the given circumstances.

99. The panel referred to its earlier finding that Ms Mahoney had purchased cigarettes and alcohol for Service User A in circumstances in which Service User A had mental capacity to make decisions about such day to day spending but was housebound and so unable to make the purchases herself, and Service User A had asked or consented to Ms Mahoney making the purchases on her behalf. The panel also referred to its earlier finding that Ms Mahoney had acted with good intentions, seeking to avoid Service User A putting herself at greater risk (by crawling into the street to ask for help

with the purchases), and that there was no dishonest motivation behind her actions. The panel also noted that Ms Mahoney had made contemporaneous records of the purchases in question. The panel therefore concluded that Ms Mahoney's conduct in purchasing cigarettes and alcohol for Service User A was not inappropriate or unprofessional and did not breach professional standards, and it did not amount to a serious departure from what would be expected in the specific circumstances of Service User A's case.

100. In respect of the record-keeping failures, the panel noted its earlier findings that there were very limited contemporaneous case records made about the bank withdrawals and no contemporaneous case records made about the two cheques. Having said that, the panel also referred to its earlier finding that it was satisfied that Ms Mahoney was not seeking to hide her actions. Although the case records themselves were inaccurate due to important omissions, the panel noted that Ms Mahoney had referenced the bank withdrawals in other relevant records – for example, in the paper recording system that she had put in place at Service User A's property, and in the corporate appointee form dated 6 December 2017, which was authorised by her line manager and sent to the Council's finance team. Furthermore, the cheques had been written on 6 March 2018 at the suggestion of, and in the presence of, the Council's appointee for Service User A. Given that factual context, the panel was satisfied that the record-keeping failures relating to the bank withdrawals and cheques were inadvertent and, in the circumstances, were not serious enough to amount to the statutory ground of misconduct.

101. Given its findings in relation to the statutory grounds, it was not necessary for the panel to go on to consider current impairment.

Outcome

102. The panel had regard to the submissions of the parties and accepted the advice of the legal adviser in relation to paragraph 12(1) of Schedule 2 to the Regulations.

103. Given that the panel had found that no statutory ground had been established, it had not gone on to consider current impairment and therefore had not made any determination as to Ms Mahoney's fitness to practise. In those circumstances, the panel decided that paragraph 12(1) of Schedule 2 to the Regulations was not engaged, and therefore the discretion to give a warning, give advice or take no further action did not arise.

The Professional Standards Authority:

104. 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.