



IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Claim No.: CO/427/2022

In the matter of an appeal pursuant to section 29 of the National Health Service Reform and Health Care Professions Act 2002

The Honourable Mr Justice Linden

BETWEEN:

**PROFESSIONAL STANDARDS AUTHORITY FOR HEALTH
AND SOCIAL CARE**

Appellant

-and-

(1) SOCIAL WORK ENGLAND

(2) ANNE WARD

Respondents

CONSENT ORDER

UPON the Appellant's appeal under s29 National Health Service Reform and Health Professions Act 2002;

AND UPON the Parties having agreed these terms and the Statement of Reasons set out in the Schedule to this Order;

AND UPON the Parties agreeing that in light of this Order, the interim suspension order imposed by the panel of adjudicators remains in force;

AND UPON none of the parties being either a child or protected party and the appeal not being an appeal from a decision of the Court of Protection;

IT IS HEREBY ORDERED BY CONSENT THAT: —

1. The appeal is allowed on grounds 1(a), 1(b), 3(b), 3(d), 4(a), 4(b), 5(a), 5(b) and 5(d) to the extent set out in the Schedules to this Order.
2. The sanction decision of the First Respondent's adjudicators dated 29 November 2021, and notified to the Second Respondent on 30 November 2021, in relation to the Second Respondent is quashed. For the avoidance of doubt, the determinations made by the panel of adjudicators on the facts, misconduct and impairment in relation to the Second Respondent remain undisturbed.

3. The matter will be remitted to a differently constituted panel of adjudicators of the First Respondent for redetermination of sanction, to be heard as soon as practicable in accordance with the following directions:
 - i. The adjudicators shall be provided with a copy of this Consent Order and the documents set out in paragraph 11 of Schedule 1 to this Order;
 - ii. The adjudicators shall redetermine the sanction to be imposed pursuant to this Order and produce a reasoned decision on sanction that meets the requirements of paragraphs 70, 111 and 112 of the Social Work England Sanctions Guidance and addresses the issues identified in this Consent Order and in the agreed Schedule of Issues.
 - iii. The adjudicators shall have regard to the Appellant's grounds of appeal when redetermining the sanction to be imposed pursuant to this Order.
4. The First Respondent shall pay 75% of the Appellant's costs of the appeal on the standard basis, to be subject to detailed assessment if not agreed.
5. The hearing listed on 26 May 2022 shall be vacated.

Mr Justice Linden

24 May 2022

BY THE COURT

SCHEDULE 1

STATEMENT OF REASONS

1. This appeal was brought under section 29 of the National Health Service Reform and Health Professions Act 2002 (the “2002 Act”) against the decision of the panel of adjudicators of the First Respondent (referred to in the Grounds of Appeal as “the Committee”) of 29 November 2021, and notified to the Second Respondent on 30 November 2021, that the Second Respondent’s fitness to practise was impaired within the meaning of Schedule 2, Paragraph 12 of the Social Workers Regulations 2018 (the “2018 Regulations”), and that she would be subject to a suspension order for a period of 12 months (“the Decision”).
2. The Appellant’s right to refer fitness to practise decisions made by the First Respondent arises by amendments to section 29 of the 2002 Act contained in Schedule 4 to the Children and Social Work Act 2017, in particular by way of the addition of Section 29(2A).
3. By section 36 of the Children and Social Work Act 2017, the First Respondent is the regulator of social workers in England. It took over that role from the Health and Care Professions Council (HCPC) with effect from 2 December 2019.
4. The Second Respondent is a registered Social Worker (registration number SW83193) and is regulated by the First Respondent.
5. The Second Respondent was subject to fitness to practise proceedings (FTP-55783) brought by the First Respondent under the 2018 Regulations. The allegations made against the Second Respondent (as subsequently amended and found proven) were:

1) For a period of time between 2010 and 2016, [the Second Respondent] conducted a personal relationship with Person A, for whom [she] had been allocated Social Worker from August 2010 until March 2011.

2) For a period of time between 2010 and 2016, [the Second Respondent] conducted a sexual relationship with Person A.

3) [The Second Respondent] did not inform [her] employer Lancashire County Council of [her] relationship(s) with Person A.

4) The matter set out in paragraph 3 is dishonest.

The matters set out in paragraphs 1-4 constitute misconduct.

As a result of [the Second Respondent’s] misconduct, [her] fitness to practise is impaired.

6. The Appellant avers that a suspension order, and therefore the Decision, is not sufficient to protect the public. The Appellant advances six Grounds of Appeal against the Decision:

1. *The [panel of adjudicators] failed to identify and/or to have adequate regard to the seriousness of the Second Respondent's misconduct and the extent to which that misconduct impairs her fitness to practise as a Social Worker and impacts upon the public interest, including by:-*
 - a. *failing to have adequate regard to the impact upon the public interest of the Second Respondent's conduct in:-*
 - i. *participating in a personal and sexual relationship with a client/former client, in particular when (as she well knew) that client was vulnerable;*
 - ii. *deliberately misleading a Local Authority Safeguarding Adults Enquiry;*
 - iii. *relying upon the particular vulnerability of the client/former client (his alcoholism) to persuade the authorities charged with investigating her conduct not to believe statements he had made about her which were in fact true;*
 - iv. *deliberately misleading the First Respondent, her regulator;*
 - b. *failing to identify the misconduct described at (a) above as conduct which is wholly incompatible with registration as a Social Worker;*
 - c. *failing to conduct an adequate analysis of the aggravating features of the Second Respondent's misconduct and the impact of those features upon the Second Respondent's fitness to practise and the public interest.*
2. *If and to the extent that the failures on the part of the [panel of adjudicators] described in Ground 1 above were caused by the absence from the Allegation of the elements of the Second Respondent's dishonesty described at sub-paragraphs (a)(ii) to (iv) of that Ground, the Suspension Order resulted from a procedural or other irregularity, in that the First Respondent had limited its allegation of dishonesty to the Second Respondent's failure to inform her employer of her relationship with her client/former client.*
3. *The [panel of adjudicators] failed to conduct an adequate analysis of:-*
 - a. *the extent to which the Second Respondent has or has not acquired insight into and/or remediated her misconduct;*
 - b. *the extent to which the Second Respondent has an attitudinal problem which is incompatible with registration as a Social Worker;*
 - c. *the extent to which the Second Respondent's lack of insight into and failure to remediate her misconduct impacted upon her fitness to practise as a Social Worker;*
 - d. *the risk posed to the public interest by the continued registration of the Second Respondent and the action required to protect the public interest in light of (i) the seriousness of the Second Respondent's*

misconduct; and (ii) the Second Respondent's lack of insight into and failure to remediate that misconduct.

4. *In its consideration of the issues of the public component of impairment of fitness to practise the [panel of adjudicators]:-*
 - a. *failed to have any or any adequate regard to the fact that the Second Respondent had participated in a personal and sexual relationship with a client/former client (the [panel of adjudicators'] primary focus being on the fact that the Second Respondent had been 'dishonest');*
 - b. *failed to have any or any adequate regard to the nature and extent of the Second Respondent's dishonesty.*

5. *In its consideration of the issue of sanction the [panel of adjudicators]:-*
 - a. *failed to have any or any adequate regard to the fact that the Second Respondent had participated in a personal and sexual relationship with a client/former client (the [panel of adjudicators'] primary focus being on the fact that the Second Respondent had been 'dishonest');*
 - b. *failed to have any or any adequate regard to the nature and extent of the Second Respondent's dishonesty;*
 - c. *was wrong to use a suspension order as a means of providing the Second Respondent with an opportunity to demonstrate the desire and motivation to undertake the necessary remediation, not least when she had had multiple opportunities over at least the last 5 years to do so;*
 - d. *failed to consider why, or provide any reasons for its statement (without more) that, 'in the circumstances of this case, a removal order would be disproportionate'.*

6. *The [panel of adjudicators] was wrong to find that a removal order would be disproportionate when in all the circumstances a removal order is the only order which is capable of protecting the public interest.*

7. The First Respondent concedes the appeal on the following bases:
 - i. There was a serious procedural irregularity in that the adjudicators failed to give adequate reasons for their decision to impose the sanction of a suspension order and why a removal order was disproportionate (Ground 5(d)).
 - ii. There was a serious procedural irregularity in that the adjudicators did not adequately explain what impact the public having knowledge of the emotional and sexual relationship between the Second Respondent and Person A would have on the public's trust and confidence in the profession, as the primary focus of the adjudicators' decision appears to have been on the misconduct in the form of dishonesty (Ground 4(a)).

- iii. There was a serious procedural irregularity in that the adjudicators failed to adequately explain why a suspension order was appropriate (Ground 5(a)).
 - iv. There was a serious procedural irregularity in that the adjudicators failed to give adequate reasons for the Decision in respect of the matters raised by Grounds 1(a), 1(b), 3(b), 3(d), 4(b), 5(b).
8. The First Respondent also concedes that the Decision was not sufficient for protection of the public within the meaning of s29(4) of the 2002 Act.
9. The Second Respondent consents to the making of this order.
10. The parties have agreed that the Decision should be quashed and remitted to a differently constituted panel of adjudicators for redetermination. For the avoidance of doubt, the parties have also agreed that the decisions of the panel of adjudicators on facts, misconduct and impairment in relation to the Second Respondent remain undisturbed. Further, the parties have agreed that, in light of this consent order, the interim suspension order made by the panel of adjudicators on 29 November 2021 in relation to the Second Respondent remains in force.
11. The parties have agreed that the following documents shall be placed before the panel of adjudicators that is to redetermine the sanction:
 - a. Paragraphs 1 to 113 of the panel of adjudicators' decision of 29 November 2021;
 - b. The transcript of the hearing before the panel of adjudicators with the exception of the determination on sanction which appears at pages 31-38 of the transcript of Day Six of the hearing before the panel of adjudicators;
 - c. The First and Second Respondents' submissions to the panel of adjudicators on sanction;
 - d. The bundles that were before the panel of adjudicators;
 - e. The First Respondent's Sanctions Guidance;
 - f. The Appellant's Grounds of Appeal; and
 - g. The Schedule of Issues (annexed hereto as Schedule 2).
12. In light of the above, the parties agree that the hearing of this appeal listed on 26 May 2022 should be vacated.
13. In the light of the above, it is requested that the Court make the Consent Order without the need for attendance by the parties.

SCHEDULE 2 - SCHEDULE OF ISSUES

The following issues are relevant to the sanction decision to be made pursuant to this Order:

1. The seriousness of the Second Respondent's misconduct in that:
 - a. she participated in a personal and sexual relationship with a service user/former service user, over a significant period of time, in particular when i) she was his allocated social worker for some of that period and ii) she knew that the service user/former service user was highly emotionally vulnerable;

- b. the conduct described at (a) above amounts to a serious breach of trust;
 - c. she knowingly misled a Local Authority Safeguarding Adults Enquiry until presented with sexually explicit photographic evidence;
 - d. she relied upon the vulnerabilities of the service user/former service user as a means of persuading the authorities charged with investigating her conduct not to believe allegations he had made about her which were later found to be true;
 - e. she has put her own interests ahead of those of the vulnerable service user; and
 - f. she knowingly misled her regulators, first the Health and Care Professions Council and then the First Respondent.
2. The nature, breadth and extent of the Second Respondent's dishonesty, which involved her:
 - a. breaching her professional duty of candour on multiple occasions over a significant period of time;
 - b. casting serious aspersions on Person A's character (an alcoholic and liar) to conceal her own misconduct;
 - c. exploiting Person A's vulnerability in order to undermine his allegations against her;
 - d. admitting to the sexual relationship only when presented with evidence in the form of photographs (the production of which by Person A she put down to revenge porn);
 - e. maintaining her denial over many years;
 - f. lying (as a Social Worker) during the course of an Adult Safeguarding Investigation; and
 - g. knowingly misleading her regulators.
3. The limited evidence of any insight on the part of the Second Respondent, in that:
 - a. by the time of the hearing before the panel of adjudicators she had had:
 - i. considerable time to reflect upon her conduct and its impact upon Person A and upon the public perception of Social Workers; and
 - ii. multiple opportunities (including formal inquiries) to act in accordance with her professional duty of candour and report it.
 - b. The remediation undertaken by the registrant included undertaking training offered by Liverpool City Council and reading in full Frank Cooper's e-book titled "Professional Boundaries in Social Work and Social Care". Following this she undertook two independent courses in relation to professional boundaries. The two courses were completed five and a half weeks before the hearing before the panel of adjudicators.