



Dated this 1st day of March 2023

**IN THE HIGH COURT OF JUSTICE**  
**KING'S BENCH DIVISION**  
**ADMINISTRATIVE COURT**

Claim No.: CO/3650/2022

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

Before the Honourable Timothy Corner KC

**BETWEEN:**

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

**Appellant**

**-and-**

**(1) SOCIAL WORK ENGLAND**

**(2) FIONA THOMAS**

**Respondents**

**CONSENT ORDER**

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**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 as set out in the Schedule to this Order;

**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 ground 1.
2. The decision of the First Respondent's panel of adjudicators in relation to the Second Respondent dated 28 July 2022 is quashed except in relation to the findings of fact. For the avoidance of doubt, paragraphs 9-24 and 31-52 of the decision remain undisturbed.
3. The First Respondent shall further investigate the matter and seek to gather further evidence on the matters set out in paragraph 6(1) of the Schedule of this Order.
4. The matter shall be remitted to the First Respondent to a differently constituted panel of the adjudicators, along with any additional admissible evidence upon which the First

and/or Second Respondents wish to rely with a direction to the First Respondent that it may amend the allegation so as to include additional particulars addressing the Second Respondent's alleged misconduct as described paragraph 6(1) of Schedule 1 to this Order.

5. An interim conditions of practice order in the terms set out in Schedule 2 to this Order is imposed against the Second Respondent for a period of 18 months from the date of this order.
6. The First Respondent shall pay the Appellant's reasonable and proportionate costs of the appeal on the standard basis to be subject to detailed assessment if not agreed.
7. The hearing listed on 23 March 2023 be vacated.

**BY THE COURT**

**We the parties consent to an Order in the above terms**

*Browne Jacobson LLP*

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**Browne Jacobson, Solicitors for the Appellant**

**Dated:** 23 February 2023

**Ref:** MA/045833

*Bates Wells*

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**Bates Wells & Braithwaite London LLP, Solicitors for the First Respondent**

**Dated:** 23 February 2023

**Ref:** 220226/0020/AH/HC

**Fiona Thomas**

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**Fiona Thomas, Second Respondent**

**Dated:** 26/02/23

**Approved by: Timothy Corner KC**

## 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 adjudicators of the First Respondent of 28 July 2022 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 conditions of practice order for a period of 18 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 SW15877) and is regulated by the First Respondent.
5. The Second Respondent was subject to fitness to practise proceedings (FTP69651) brought by the First Respondent under the 2018 Regulations. The allegation made against the Second Respondent (as subsequently amended) was:

*While registered as a social worker in Dudley’s Multi-Agency Safeguarding Team, between January 2019 and March 2019 you failed to progress at least seven referrals allocated to you, either quickly enough or at all, leaving children at risk of harm.*

*Your actions above amount to misconduct.*

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

6. The Appellant alleges that a conditions of practice order and therefore the Decision is not sufficient to protect the public, to maintain public confidence in the social work profession, or to maintain proper professional standards and conduct for members of that profession within the meaning of section 29(4A) of the 2002 Act. The Appellant advances three Grounds of Appeal against the Decision:
  - (1) *Ground 1 – Social Work England’s failure to properly investigate potential failures by the Registrant in deleting and/or leaving unread 10 MARFs such that they were left unactioned, in failing to take action in respect of 77 referrals which had been assigned to her, and in informing her managers that she had no outstanding work when she knew that was not the case, constituted under-prosecution and a serious procedural irregularity.*

- (2) *Ground 2 – Social Work England's failure to present and pursue allegations reflecting the full gravity and extent of the Registrant's misconduct constituted under-prosecution and a serious procedural irregularity.*
  - (3) *Ground 3 – the Adjudicators should have adjourned the hearing and directed that Social Work England should investigate the further matters set out in Ground 1 and amend the allegation accordingly.*
7. The First Respondent concedes the appeal on Ground 1. The First Respondent also concedes that the Decision was not sufficient for protection of the public within the meaning of s 29(4) of the 2002 Act.
8. The Second Respondent consents to the making of this order.
9. The parties have agreed that the Decision should be quashed, except in relation to the findings of fact made and that the First Respondent should be directed to gather further evidence with respect to the matters set out in Ground 1 and, if necessary, amend the allegation accordingly.
10. The parties have agreed that the matter should be remitted to a differently-constituted panel of adjudicators for fresh consideration.
11. In light of the above, the parties agree that the hearing of this appeal listed on 23 March 2023 should be vacated.
12. In light of the above, it is requested that the Court make the Consent Order without the need for attendance by the parties.

## Schedule 2

### INTERIM CONDITIONS OF PRACTICE ORDER

1. The parties have agreed that, in light of the findings of fact made by the adjudicators at paragraphs 9-24 and 31-52 of the Decision, it is necessary for the protection of the public to impose an interim conditions of practice order on the Second Respondent under paragraph 11(1)(a) of Schedule 2 of the Social Workers Regulations 2018. The fitness to practice concerns identified by the adjudicators' findings of fact relate to alleged serious misconduct which placed vulnerable service users at risk of continued harm. Further, there remains a real risk of repetition in the absence of evidence of remediation and the quality of the Second Respondent's practice since the events in question. An interim order is therefore necessary on grounds of public protection and/or is in the public interest to be imposed to restrict the Second Respondent's practice so as to protect the public from further incidents occurring while the other incidents are investigated.
2. The parties agree that the interim conditions of practice order should be in the following terms:

#### **CONDITIONS OF PRACTICE**

##### **Condition 1**

You must notify Social Work England within 7 days of any professional appointment you accept or are currently undertaking and provide the contact details of your employer, agency or any organisation with which you have a contract or arrangement to provide social work services, whether paid or voluntary.

##### **Condition 2**

You must allow Social Work England to exchange information with your employer, agency or any organisation with which you have a contract or arrangement to provide social work or educational services, and any reporter or workplace supervisor referred to in these conditions.

##### **Condition 3**

- a. At any time you are providing social work services, which require you to be registered with Social Work England, you must agree to the appointment of a reporter\* nominated by Ms Thomas/employer and approved by Social Work England. The reporter must be on Social Work England's register.
- b. You must not start or continue to work until these arrangements have been approved by Social Work England.

\*The workplace reporter and supervisor may be the same person

##### **Condition 4**

You must provide reports from your reporter to Social Work England every 3 months and at least 14 days prior to any review and Social Work England will make these reports available to any workplace supervisor referred to in these conditions on request.

**Condition 5**

You must inform Social Work England within 7 days of receiving notice of any formal disciplinary proceedings taken against you from the date these conditions take effect.

**Condition 6**

You must inform Social Work England within 7 days of receiving notice of any investigations or complaints made against you from the date these conditions take effect.

**Condition 7**

You must inform Social Work England if you apply for social work employment / self-employment (paid or voluntary) outside England within 7 days of the date of application.

**Condition 8**

You must inform Social Work England if you are registered or subsequently apply for registration with any other UK regulator, overseas regulator or relevant authority within 7 days of the date of application [for future registration] or 7 days from the date these conditions take effect [for existing registration].

**Condition 9**

You must work with your workplace supervisor/reporter, to formulate a personal development plan, specifically designed to address the shortfalls in the following areas of your practice:

- Workload and practice management
  - Demonstrating your ability to deal with systems and comply with required statutory and other timescales for work required
- Comprehensive reflection on induction
  - Evidence that you are proactively identifying your development needs within any role you undertake.

**Condition 10**

You must provide a copy of your personal development plan to Social Work England within 4 weeks from the date you commence employment as a social worker and an updated copy 1 month prior to any review.

**Condition 11**

- a. At any time you are employed, or providing social work services, which require you to be registered with Social Work England; you must place yourself and remain under the supervision of a workplace supervisor\* nominated by your employer and agreed by Social Work England. The workplace supervisor must be on Social Work England's register.
- b. You must not start or continue to work until these arrangements have been approved by Social Work England.

\*The workplace reporter and supervisor may be the same person

**Condition 12**

You must provide reports from your workplace supervisor to Social Work England every 3 months and at least 14 days prior to any review, and Social Work England will make these reports available to any reporter referred to in these conditions on request.

**Condition 13**

You must keep your professional commitments under review and limit your social work practice in accordance with your workplace supervisor's advice.

**Condition 14**

You must not supervise and/or be responsible for the work of any other social worker or student social worker.

**Condition 15**

You must not work as an independent social worker and must only work as a social worker at premises where other social workers are employed.

**Condition 16**

You must not be responsible for the administration and/or management of any independent social work practice or establishment.

**Condition 17**

You must read Social Work England's 'Professional Standards' (July 2019) and provide a written reflection 6 months after these conditions take effect, focusing on how your conduct, for matters relating to this case, namely workplace practice management and proactive identification of development needs was below the accepted standard of a social worker, outlining what you should have done differently.

**Condition 18**

You must provide evidence of CPD undertaken to Social Work England every 6 months from the date these conditions take effect.

**Condition 19**

You must provide a written copy of your conditions, within 7 days from the date these conditions take effect, to the following parties confirming that your registration is subject to the conditions listed at (1) to (18), above:

- Any organisation or person employing or contracting with you to undertake social work services whether paid or voluntary.
- Any locum, agency or out-of-hours service you are registered with or apply to be registered with in order to secure employment or contracts to undertake social work services whether paid or voluntary (at the time of application).
- Any prospective employer who would be employing or contracting with you to undertake social work services whether paid or voluntary (at the time of application).
- Any organisation, agency or employer where you are using your social work qualification/knowledge/skills in a non-qualified social work role, whether paid or voluntary.

You must forward written evidence of your compliance with this condition to Social Work England within 14 days from the date these conditions take effect

**Condition 20**

You must permit Social Work England to disclose the above conditions, (1) to (19), to any person requesting information about your registration status.