



Name:

Elizabeth Brenda Atinuke Davies
Restoration application hearing

Hearing Venue:

Remote hearing

Dates of hearing:

8 November 2021 and 21 December 2021

Hearing Outcome:

Application dismissed

Introduction and attendees:

1. Ms Davies attended the remote hearing and was represented by her nephew Mr Babatunde Davies, a lay person.
2. Social Work England was represented by Ms Louisa Atkin, Counsel, presenting officer from Capsticks LLP.

Adjudicators	Role
Carolyn Tetlow	Lay Chair
Joma Wellings-Longmore	Social Work Adjudicator
Sandra Norburn	Lay Adjudicator

Jyoti Chand	Hearings Officer
Kathryn Tinsley	Hearing Support Officer
Conor Heaney	Legal Adviser

Background to application:

3. Ms Davies applied to be restored to Social Work England's register of social workers to enable her to return to social work practice in England.
4. The application was made pursuant to regulation 15 of the Social Workers Regulations 2018 ('the Regulations').
5. The panel may, in accordance with regulation 15(6) of the Regulations:
 - a. restore the person's registration by recording the information set out in regulation 9(1) of the Regulations in relation to them in the register, and must notify them accordingly, and
 - b. make a conditions of practice order in relation to the registered social worker, and paragraphs 12(4), 13, 15 and 16 of Schedule 2 of the Regulations apply to such an order as they apply to a conditions of practice order made in fitness to practise proceedings.
6. Ms Davies qualified as a social worker in 2001. It is understood that she was previously registered with the General Social Care Council ('GSCC') and the Health and Care Professions Council ('HCPC').
7. A substantive hearing took place before a Conduct and Competence Committee of the HCPC between 4 and 6 November 2015. Ms Davies did not attend the hearing, nor was she represented. Having decided to proceed in her absence, the Committee considered the following Allegation:

During the course of your employment as an agency Social Worker at Southampton City Council, you:

1. On 29 April 2013, recorded on Child A's case notes on the PARIS recording system, that you had visited Child A, when you had not.

2. The matter set out at paragraph 1 constitutes dishonesty.

3. On 7 May 2013, paid a visit to Child A's home: 171 (i) after having been suspended and/or (ii) you discussed confidential matters with her mother in a public place.

4. The matters described at paragraphs 1 - 3 constitute misconduct.

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

8. The Committee found the Allegation proved in its entirety.

9. In determining that Ms Davies' fitness to practise was impaired, the Committee considered that all four limbs of the test for impairment expressed in the case of *CHRE and NMC and Grant* [2011] EWHC 927 (Admin) were engaged. The Committee stated:

'The falsification of a service user's social work record and discussing confidential matters about the service user in public carry a clear risk of harm. The false PARIS record could have adversely affected Child A's ongoing interaction with Children's Services and the continuity of her care. It provided a false picture of her personal circumstances and as a result had the potential to affect her wellbeing. Discussing confidential matters in public had the potential to expose Child A, Child A's mother and others to a risk of harm given the sensitive nature of the matters discussed and who may have overheard them. Both of these matters would clearly have brought the social work profession into disrepute. The public are entitled to believe that social workers will act honestly and will protect the confidentiality of the sensitive information they hold about service users. These matters amount to a breach of one of the fundamental tenets of the social work profession, and the Panel has found that the Registrant acted dishonestly.'

10. The Committee considered that a written submission provided by Ms Davies to the HCPC in 2013 contained, 'no expression of remorse, nor evidence of insight' and found that there was no evidence of any remediation. The Committee noted that, 'The Registrant has at no time accepted that she has acted dishonestly, which would be the first step required to begin any such remediation.' Ms Davies was considered to pose an ongoing risk to service users in the circumstances.

11. In deciding that it was appropriate to remove Ms Davies from the register, the Committee stated as follows:

'In this case the Registrant's misconduct is so serious that the Panel finds there is a public interest in permanently preventing her return to social work practice. Therefore a suspension order is insufficient. The Panel has concluded that it is necessary for the Registrant to be prevented from practising in order for the public to be fully protected, and for public confidence in the profession and the regulatory

process to be maintained. The Registrant's dishonesty was a deliberate act and her decision to visit Child A's home after being suspended was, at best, reckless. In this case there was a serious abuse of trust involving the falsification of a service user's social work record and a breach of confidentiality. There is an absence of insight. The Panel has determined that the Registrant's behaviour is incompatible with continued registration. In coming to this conclusion the Panel has borne in mind the Registrant's interests but has concluded that there is an overwhelming necessity to protect the public. In these circumstances the Panel considers that a striking off order is proportionate, as the requirements of public protection and the wider public interest cannot be adequately served by any other sanction.'

12. Ms Davies appealed against the decision to remove her from the register. Her appeal was dismissed, following a hearing in the High Court on 13 April 2016 before Wyn Williams J, with judgment being handed down on 5 July 2016. He dismissed the appeal, finding that, *'Despite the Appellant's eloquent plea that she has been a victim of injustice there is no proper evidential foundation for such a conclusion.'*
13. Ms Davies originally made an application for restoration to the Social Work England register on 25 November 2020. Her application was closed on 15 April 2021 upon it being noted that she was not eligible to apply for restoration until 6 July 2021. Ms Davies made a further application for restoration with Social Work England on 12 July 2021.
14. Ms Davies subsequently submitted a return to practice form dated 18 August 2021, in which she outlined her practice as a social worker with Genesis Social Care Initiative in Nigeria between May 2016 and February 2020. Ms Davies stated that she had also completed 10 months of formal study, namely a Return to Social Work course at the University of Central Lancashire between 1 May 2020 and 7 December 2020. Ms Davies also indicated that she had completed a period of 70 hours' shadowing other social workers at Essex County Council and provided details of other courses and private study activities she had undertaken.
15. At a Case Management Meeting on 11 October 2021, a Panel of Adjudicators made the following directions:
 1. *If Ms Davies wishes to give evidence relating to the circumstances of her removal from the register and her suitability for returning to the Social Work Profession, including but not limited to a) testimonial evidence and or references, b) reflection on the seriousness of the concerns that gave rise to her removal, and c) the likelihood of further repetition She is directed to submit that evidence in writing to Social Work England by 4.30 pm on 25 October 2021.*
 2. *If Ms Davies wishes to rely upon testimonials/references, she is directed to set out in writing the name and professional position of each person providing a testimonial or reference and to submit that evidence to Social Work England by 4:30 PM on 25 October 2021.*
 3. *If Ms Davies has completed the requirement to carry out 60 days of updating her social work knowledge and skills, she is directed to set out in writing the activities upon which she relies and set out how these satisfy the requirement. She is directed to submit that evidence to Social Work England by 4.30 pm on 25 October 2021.*

4. Ms Davies is directed to provide the following information about her employment over the past 5 years by 4:30 PM on 25 October 2021.

- *Dates of employment, paid or unpaid (from/to)*
- *Job Title and any other relationship to the company*
- *Employer name, address, phone number*
- *Manager contact name and email address*
- *A full description of her duties.*

16. Ms Davies provided further information on 25 October 2021, including:

- a. A statement reflecting on the seriousness of the concerns that gave rise to her removal and the likelihood of further repetition;
- b. A reflective study on her social work practice;
- c. Further copies of training certificates;
- d. An email providing details of her period of shadowing with Essex County Council; and
- e. An email forwarding a further copy of the testimonial provided by Genesis Social Care Initiative.

Submissions:

17. In support of her application, Ms Davies gave evidence to the panel. In her evidence, at the outset, Ms Davies stated that she accepted the facts found proved against her at the substantive hearing. Ms Davies explained that, at the material time, she was working as a locum social worker as part of the Safeguarding Team, and had approximately 20 vulnerable children on her caseload, one of whom was Child A. Ms Davies set out in detail the circumstances of her visit to Child A's home. She was refused admittance to the house by Child A's mother. Ms Davies denied that she had discussed matters of a confidential nature on the doorstep of Child A's home. Notwithstanding this, Ms Davies accepted that her decision to make a visit to the house was wrong. Ms Davies was adamant that she had visited Child A's school having spoken to her supervisor about what she should do and that she had made the relevant PARIS entry to reflect that fact.
18. Following her removal from the register, Ms Davies worked with Genesis Social Care Initiative in Nigeria. That organisation assisted people who were internally displaced, women who had been the victims of domestic abuse and victims of female genital mutilation. From December 2015 until February 2020, Ms Davies worked with Genesis in the capacity of Project Director. Ms Davies used the skills she had acquired as a social worker to assist those referred to Genesis. She also signposted them to other non-governmental organisations who could provide further assistance and support their needs.
19. Ms Davies spoke of her efforts to keep up to date with practice, following her return to the United Kingdom after her employment with Genesis had ended. Between May and December 2020 Ms Davies obtained a certificate in Critical Reflection on Professional Learning and

Development at the University of Central Lancashire. She had also shadowed social workers, on an unpaid basis, at Essex County Council attached for one week to the Child Protection Team and a further week with the Children in Care/Safeguarding Team. In addition to providing evidence as to these matters, Ms Davies also provided confirmation that she had completed relevant return to practice CPD.

20. The panel was told by Ms Davies that, in the period following her removal from the Register, she had taken steps to reflect on her actions. Ms Davies accepted the need to maintain accurate records and the need to ensure privacy when sensitive safeguarding matters were being discussed. She had gained insight into her failings and had taken steps so as to ensure there would be no repeat of them. Prior to the HCPC proceedings being taken against her, there had been no other regulatory concerns about her practice before or since. Ms Davies stated that her insight and evidence of remediation were such that she should be restored to the Register.
21. In his closing submissions on behalf of Ms Davies, Mr Davies summarised Ms Davies' evidence and submitted that the panel should grant Ms Davies' application for restoration to the register. He submitted that she had admitted fault, had shown insight, and had undertaken appropriate remedial action.
22. Ms Atkin, on behalf of Social Work England made a submission to the panel that Ms Davies' application for restoration to the Register should be refused. In spite of her acceptance of the findings and determination made at the substantive hearing, Ms Atkin submitted that, in her evidence, Ms Davies had not shown genuine acceptance of her failings as found proved nor had she demonstrated persuasive evidence of insight and remediation. Ms Davies had not accepted responsibility for her actions. She had not accepted that she had been dishonest or deliberately falsified a record, or that she had discussed confidential matters on the service user's doorstep. Ms Davies had sought to minimise her wrongdoing by blaming what Ms Davies had described as her employer's 'local practices' at the time. Ms Atkin also noted that the sole testimonial in support of Ms Davies' application gave no indication that the writer was aware of the concerns, or that Ms Davies had been removed from the register.
23. Given her limited insight, and the absence of meaningful reflection on the importance of integrity and honesty, Ms Atkin submitted that there was a clear risk of repetition. She invited the panel to refuse Ms Davies' application for restoration.

Panel's decision:

24. The powers of the panel at the hearing are set out in regulation 15(4) of the Regulations as follows:

A person whose entry has been removed from the register as the result of a removal order may not apply to be restored to the register until after the period of five years beginning with the date on which the removal order took effect (whether under paragraph 12, 15, or 16 of Schedule 2), and is eligible to be restored where

—

(a) the adjudicators are satisfied that the person meets the requirements for initial registration referred to in regulation 11(2),

(b) the person has not, in the preceding 12 months, made an application for restoration to the register which was refused, and

(c) the person meets any further requirements as to additional education, training or experience as are determined by the regulator to apply to them.

25. The panel considered the oral evidence of Ms Davies and oral submissions from Mr Davies and Ms Atkin. The panel also took into account all of the documents submitted in advance of the hearing on 8 November 2021. The panel accepted the legal adviser's advice and had careful regard to Social Work England's Restoration to the Register After Removal Order Guidance 2019 ('the Guidance').

26. The panel reminded itself that the onus was on Ms Davies to satisfy the panel that she is fit to return to practice. The panel should not go behind the findings on facts, impairment and sanction made by the HCPC Committee at the 2015 substantive hearing.

27. The panel adopted the approach as identified in the Guidance as follows:

When considering applications for restoration, the panel should approach their decision in two distinct stages:

• First, they should consider the matters which led to the removal and the evidence of insight, remorse and remediation. They should then make findings about those matters.

• Secondly, if they make positive findings as to insight, remorse and remediation, the panel should step back and balance the findings against each of the 3 limbs of our overarching objective. This will help them to consider the case overall, including the length of time since the removal, and decide whether the restoration would promote and maintain public confidence and proper professional standards. Ultimately, it will allow them to decide, despite the serious nature of the original matters which led to removal, whether our overarching objective of protecting the public be achieved?

28. In spite of Ms Davies' stated acceptance, in her oral evidence, of the findings made by the Committee at the substantive hearing, she quickly departed from that position in the course of her evidence. Ms Davies' evidence that she accepted her actions had the potential to undermine the public's trust and confidence in the social work profession was considered by the panel to be superficial. In the panel's view she showed no genuine appreciation of the impact of her behaviour on public trust and confidence in the social work profession, nor of the risk to the child concerned arising from the falsification of the record.

29. Ms Davies' responses to panel questions relating to her unpaid shadowing placement with Essex County Council did not satisfy the panel that she had fully reflected on how the placement had informed her practice or her views on where her skills might need upgrading. Ms Davies' response to questions on what she had learnt during the placement was centred on matters relating to remote working caused by Covid restrictions and not on any identified gaps in her working knowledge or current skills and how she would address these. Further, the panel noted the comment from the Team Manager of the Assessment and

Intervention team at Essex County Council that *"I didn't feel her skills and knowledge were current enough for her to return to practise"*.

30. Ms Davies admitted making *"mistakes"* but reiterated in her oral evidence that the mistake she had made was not visiting Child A's mother with another colleague. It appeared that the issue from Ms Davies' perspective was that she should not have made the home visit alone. Ms Davies' response that a colleague would be necessary and beneficial for home visits in order to act as a *"witness"* failed, in the panel's view, to demonstrate sufficient understanding of a Social Worker's responsibilities regarding confidentiality. It was Ms Davies' case that policies and procedures relating to confidentiality differ from one Local Authority to another and that, therefore, the way in which she had conducted the visit to Child A's mother would have been acceptable in other local authority settings. It was the panel's view that Ms Davies appeared to minimise her wrongdoing and did not demonstrate an understanding of the importance of maintaining the high standard of professional confidentiality that is required from Social Workers.
31. With regard to dishonesty, Ms Davies submitted that she did not *"...wilfully set out to falsify or be dishonest"* although she accepted her actions could be seen as dishonest. Ms Davies explained that the record was false in that she might have written the wrong date, but that she had visited the school. She characterised the false record as *"a mistake"*. The panel noted, however, that in her written submissions to the High Court in 2015 Ms Davies had stated *"The appellant maintains, that she attended the school, in her capacity as a social worker, to visit Child A on the day in question."* When asked about this submission during this restoration hearing Ms Davies stated that as the event was eight years ago she could no longer recollect in detail what had happened. The panel noted the High Court Judge's findings that Ms Davies had recorded that she had visited the child at school at 11am on 29 April 2013 and that *"...there is no dispute that at about 4.40pm on the same day [Ms Davies] visited the school and spoke to the Head Teacher"*. He concluded that, *"...the falsity of the record was proved not by the evidence of Witness 1 but by the evidence of Child A, the mother and the evidence from the Head Teacher and the Assistant Site Manager"*. In light of these findings the panel was of the view that in characterising the recording as *"a mistake"*, Ms Davies demonstrated a lack of insight into the gravity of dishonestly recording that she had visited the school at 11am and that she had seen the child there.
32. In this regard, the panel agreed with the written submissions made on behalf of Social Work England in advance of the hearing which stated:

'The applicant has not demonstrated insight into the importance of honesty and integrity in social work generally, or on the potential consequences of falsely recording a visit which had not taken place. The applicant appears to minimise the incident where she breached confidentiality and shows no real insight into the risks of her actions.'
33. In the panel's view the written evidence provided by Ms Davies as evidence of insight and remediation was self-focussed and did not adequately address the public protection issues identified by the Committee at the substantive hearing or the broader public interest considerations which had been engaged.
34. Having listened carefully to Ms Davies' evidence and considered the written evidence presented in support of her application, the panel was of the view that Ms Davies' insight into

her failings and their consequences was limited. As such, the panel considered that, should Ms Davies return to practice, there would be a risk of repetition.

35. In addition, having regard to her limited insight taken together with evidence of incomplete remediation and the risk of repetition, the panel considered that restoring Ms Davies to practice at this time would be inconsistent with Social Work England's overarching objective which includes:
- a. protecting, promoting and maintaining the health, safety and wellbeing of the public;
 - b. promoting and maintaining the public's confidence in social workers in England; and
 - c. promoting and maintaining proper professional standards for social workers.
36. For these reasons, the panel dismissed Ms Davies' application.

Postscript

37. Following the panel's retirement to consider the application, but prior to its determination, on 20 December 2021, the panel was provided with written submissions by Mr Davies which he asked the panel to consider in support of the application for restoration. The panel read the written submissions and convened on 21 December 2021, prior to announcing its decision, to consider Mr Davies' written submissions.
38. Upon being questioned by the panel, Ms Davies confirmed that she was content for the panel to make its decision on her application for restoration based upon the documentary and oral evidence which was before the panel on 8 November 2021. Ms Davies also confirmed that she did not wish for the panel to take into account Mr Davies' written submissions which had been furnished on 20 December 2021.
39. Accordingly, in light of Ms Davies' request, the written submissions of Mr Davies formed no part of the panel's deliberations in respect of her application.

Right of appeal:

40. A person may appeal to Social Work England, in accordance with regulation 19(1)(h) of the Regulations, appeal a decision to refuse to restore registration under regulation 15(10) of the Regulations.
41. On an appeal under paragraph 19(1)(h) a panel of adjudicators may:
- (a) dismiss the appeal;
 - (b) quash the decision;
 - (c) substitute for the decision being appealed any other decision that the decision maker could have made; or,
 - (d) remit the decision to the regulator