



Appellant: Mary Ayim
Case Number: REG-AP-15194
Registration Appeal Hearing

Date of hearing: Monday 29 January 2024

Hearing venue: Remote hearing

Hearing Outcome: Appeal Dismissed.

Introduction and attendees:

1. Ms Mary Ayim attended and was not represented. She was supported by a friend and colleague who joined the virtual hearing room with their camera off and sound muted.
2. Social Work England was represented by Ms Jennifer Holdsworth, presenting officer from Capsticks LLP.

Adjudicators	Role
Catherine Boyd	Chair
Rosemary Chapman	Social Work Adjudicator

Jenna Keats/Titlee Pandey	Hearings Officer
Kathryn Tinsley/Jo Cooper	Hearings Support Officer
Jane Lakin	Legal Adviser

Documentation:

3. The following documentation was available to the parties in relation to the application:
 - (i) Registration Appeal Hearing bundle comprising 1284 pages.
 - (ii) Submissions bundle comprising 11 pages.
4. The document appearing at part 1.2 of the Registration Appeal bundle at pages 1-6 was provided during the course of the hearing to assist the panel in determining a preliminary issue.

Service:

5. The panel accepted legal advice and were satisfied that service of the appeal hearing notice had been undertaken in accordance with regulations and the Social Work England Guidance "Guidance for adjudicators making registration appeal decisions" dated 16 December 2022. The notice of hearing had been served on 12 December 2023 by email to the email address provided to Social Work England. Confirmation of the document dispatch was contained in a statement of service dated 12 December 2023.

The appeal:

6. This is an appeal against the decision of Social Work England (“**the Registrar**”), contained in a letter dated 13 October 2023, to require Ms Ayim to undergo an English language assessment.
7. This appeal is made pursuant to Regulation 19 of the Social Workers Regulations 2018 (“**the Regulations**”). The panel’s powers in Regulation 19(6) are set out below.
8. A case management meeting in respect of the appeal took place between a panel of adjudicators on 12 December 2023 and a decision was made in the following terms:
 1. The registration appeal of Mary Ayim will be dealt with by way of a hearing.
 2. The panel and legal adviser are to be given half a day reading time before the hearing to consider the papers, which are currently in excess of 1,500 pages of documents.
 3. Social Work England should consider listing the hearing for 2 days, given the complexity of the arguments and the volume of material to be considered.
 4. If it is not possible to list for two days within a reasonable time frame (currently scheduled for 29 January 2024), this registration appeal should be the only matter listed for that day.

9. Further directions were given at the case management meeting in the following terms:

“1. 14 days before the Registration appeal hearing, Social Work England is to provide its response to the following questions as set out in Ms Ayim’s notice of appeal, dated 8 November 2023:

1. What is the Registrar’s definition/interpretation of the first and native English language of an overseas applicant?

2. Which jurisprudence/laws in the UK legitimise the Registrar’s definition of the first and native English language of overseas applicants?

3. Why is this definition not included in Schedule 1 (rules and regulations): the section describing terminologies used in its rules and regulations?

4. How does Social Work England determine whether an overseas applicant is a first and native English speaker?

5. Has this rule or determination been applied neutrally/fairly to all overseas applicants?

6. Why are my individual circumstances, having obtained a Master’s degree, and currently pursuing a PhD in reputable universities in the UK, not an overwhelming determining factor?

2. 14 days before the Registration appeal hearing, Social Work England is to provide a skeleton argument to include the following areas:

1. Social Work England's position as to whether or not Regulation 18 gives the Regulator a discretion to determine that the nature and quality of the evidence demonstrates that the necessary knowledge of English has been achieved, where there has been a finding by an appeal panel that it should be sufficient to demonstrate the required proficiency. If not, an explanation as to why not.

2. Social Work England's position as to how the decision of the first appeal panel has been respected in the Regulator's subsequent consideration of Ms Ayim's application by requiring her to sit the IELTS, when the first appeal panel quashed that requirement, finding that there would be an injustice if the evidence of her level of proficiency in English were not taken into account.

3. Social Work England's position as to how Rule 16 is compatible with the Equality Act 2010 and other relevant legislation, for applicants who may have qualified as a social worker abroad, having been taught and examined in English, but not in a country recognised as having English as their first and native language, but are studying in English to Masters and PhD level in the UK and are working in the UK"

Preliminary Application

10. Social Work England, through their legal representatives, Capsticks, wrote to the Appellant on 9 January 2024, by email indicating that "Further to the directions provided at the Adjudicators Administrative Meeting on 12 December 2023, I have been instructed by Social Work England to inform you that they will not be complying with the directions made. The reason for this is that Social Work England do not consider that this information is relevant to the appeal. Full reasons will be provided in Social Work England's submissions in due course." The panel considered as a preliminary issue the failure of Social Worker England to respond to the directions.
11. The panel received legal advice that in accordance with regulation 32 Fitness to Practice Rules 2019 they may regulate their own procedures and must conduct the hearing or meeting in the manner it considers fair. The panel could specifically ask for information relating to the directions if it considered that this information would support the specific question which the panel had to consider. The panel may invite representations from both parties on this issue to assist in its decision making.
12. The panel was further advised that in accordance with rule 15(3)(a) if a direction is not complied with by either the appellant or Social Work England, it may draw an adverse inference when considering the registration appeal. That is, it may draw a negative conclusion about the failure to comply with the direction. In accordance with rule 15(3)(b), if either party fails to comply with a direction that relates to evidence, it may refuse to admit that evidence.

13. The panel received further advice from the legal adviser that Social Work England has declined to respond specifically to these questions indicating that they are questions relating to the creation of the legislation rather than the application of the legislation. Social Work England has referred the appellant to Social Work England's guidance in relation to overseas applications which provides publicly available information relating to the operation of the rules and regulations. Whilst for example it does not define first and native, the guidance does provide the countries in respect of which this would apply and also references the Law Commission basis for the inclusion of this. The panel was advised its remit is solely in relation to the application of the legislation rather than its appropriateness, suitability, or genesis.
14. The legal adviser indicated that elements of the directions are addressed in the case summary provided by Social Work England which has indicated that it has not responded to the directions where it considers that those issues are outside of the matters which the panel has locus to consider. Social Work England has expressed the view that to respond in detail to points which are outside of the jurisdiction of the panel could lead to rendering any decision made irrational and that information regarding the process is available on the Social Work England website. Social Work England has not sought to elaborate as to how it views the interconnection between Regulation 11(4) Social Workers Regulations 2018 and Rules 16,17 and 18 of the Registration Rules 2019. This issue does appear to have been addressed in part by the letter to Ms Ayim from Joseph Stockwell (the Registrar of Social Work England) dated 13th October 2023 appearing at pages 43- 49 of the Hearing bundle stating that Rule 18 is to be read in conjunction with and subject to Rule 16 and Regulation 11(4). The letter from Mr Stockwell also appears to address point 2 (2) of the requested directions. Point 2(3) is a request for information which appears to be related to the appropriateness of the legislation and its compatibility with the Equality Act 2010. This would fall outside of the remit of the panel and would be a more appropriate direction in relation to judicial review proceedings.
15. The legal adviser advised the panel that the decision as to whether to draw adverse inferences may depend on the view reached by the panel in relation to the substantive issue. If the panel accepted Social Work England's position that the appeal should be restricted to the application of the rules and regulations rather than the substance of the regulations themselves then it may accept Social Work England's position in relation to compliance with the directions and not wish to draw adverse inferences. If the panel determines that the substance of any of the directions remains a relevant issue then the panel may consider that compliance with the directions or failure to comply with directions is a point it may wish to draw an adverse inference about.

Submissions on the preliminary Issue

16. Ms Holdsworth submitted that Social Work England had not provided evidence in relation to issues outside of the ambit of the appeal as they were concerned to do so would lead to the potential of an irrational decision based on matters which were not within the scope of the appeal. She further submitted that the decision in scope of the panel was the decision of

13th October 2023 to require Ms Ayim to undertake the English language testing. She submitted that the appropriateness or otherwise of the non- inclusion of Ghana in the list of countries where English was identified as a first and native language was not a matter for determination by the panel.

17. Ms Ayim submitted that the non-inclusion of Ghana as a country where English was a first and native language infringed her human rights as this meant that she was required to undertake an English language test which she submitted was wholly unnecessary.
18. The panel considered the preliminary issue of compliance with the directions of 12 December 2023 and determined that they wished to proceed with the application without making further orders and would determine whether an adverse inference regarding non - compliance was appropriate when determining the substantive appeal.

Background to this appeal:

19. This appeal follows two decisions from the Social Work England Registrar that Ms Ayim should undertake The International English Language Testing System and achieve the minimum grade as prescribed by Regulation 16 (2) of the Registration Rules 2019. The first decision was made by the registrar on 22 June 2023 and the second decision was made on or around 13 October 2023 by the Registrar. In between the two determinations the appellant successfully appealed against the first decision and adjudicators quashed the decision made on 22 June 2023 at a hearing on 22 September 2023. Social Work England detailed in the letter of 13 October 2023 that it had reviewed the requirement for the International Language Testing System test in accordance with Regulation 16, 17 and 18 of the Registration Rules 2019 and Regulation 11(4) of the Social Workers Rules 2018 and remade the direction to require the English language test afresh. It is that decision that Ms Ayim seeks to appeal.
20. Ms Ayim applied to the Registrar to be admitted to the Register of Social Workers on 13 June 2022. Her application was assessed on 30 July 2022 and the assessors decided that there were “shortfalls” in her qualifications and experience, and they needed further evidence of her qualifications and practical experience. A second assessment was conducted in September 2022 and “shortfalls” were again identified. Ms Ayim subsequently undertook a “Period of Adaptation” with SENDIASS (Special Educational Needs Disability Information and Advice and Support Service) in Birmingham.
21. Following her completion of this period, Ms Ayim’s application was further considered and on 22 June 2023 Social Work England informed her that it required an English language assessment.
22. Ms Ayim’s personal and educational background are not in dispute and are set out in Social Work England’s written submissions.
23. Ms Ayim was awarded a Bachelor of Social Work Degree by the Kwame Nkrumah University of Science and Technology Kumasi, Ghana on 1 June 2018.

24. Ms Ayim came to the UK in 2019 with a commonwealth scholarship and undertook a one-year Masters degree at the University of Birmingham in (Taught) Social Research (Social Work and Professional Practice), which was awarded on 25 November 2020.
25. Ms Ayim is currently studying for a PhD in Social Work, Social Care and Mental Health at the University of Birmingham. The expected completion date is September 2024. A letter dated 18 October 2021 states that the language of instruction is English.
26. There is no dispute that, alongside her PhD, she worked part-time as a support worker at Aspects Care Limited.
27. Ms Ayim volunteered at Special Education Needs and Disability Information and Support Services (SENDIASS) and was made a permanent member of staff on 1 September 2022, working 20 hours per week as a support worker. She undertook 60 days of assessed and supervised practice (adaptation) at SENDIASS between 15 September 2022 and 31 January 2023. The panel has seen a report of that in the bundle before it.
28. The panel noted that during the course of the first appeal Ms Ayim did not give evidence but established the matters set out above in documents before the panel and through the witness evidence provided at the appeal hearing on 22nd September 2023. The panel accepted the witness evidence provided by:

Dr John Forkuor

Dr Forkuor provided a written statement and gave evidence by video link. He is a Senior Lecturer of Social Work, the Exam Officer of the Department of Sociology and Social Work (KNUST), and the President of the Commonwealth Scholars and Fellows Alumni, Ghana.

He taught Ms Ayim during her four-year undergraduate degree in Social Work, and acted as her direct supervisor during the year she worked as a teaching and research assistant in Social Work. Her entire education was conducted in the English Language, which is the Language of instruction, communication, and assessment at all levels of Ghana's educational system.

In his oral evidence he emphasised that he had taught Ms Ayim for two years and she had worked for him as a teaching assistant. He confirmed to the panel that all her teaching and written exams had been in English and she had published articles in English.

He also told the panel that in order to be admitted to her course, Ms Ayim had shown proficiency in English and then studied for a further two years, one year of English communication and one of literature. He confirmed that all government agencies and higher education are conducted in English in Ghana.

Mr Kwaku Afram

Mr Afram provided written evidence and also gave evidence by video link. He is president of The Ghanaian Social Workers Association and attests to Ms Ayim's qualifications obtained in English.

He has known Ms Ayim since she came to the United Kingdom. He is an experienced social worker who has been a child protection conference chair and independent reviewing officer for over 10 years. A significant part of his work involves reviewing and quality assuring the work of other social workers.

He has not looked at Ms Ayim's work but heard her speak at the association and was impressed by her understanding of technical language as well as the quality of her English in general.

The panel noted that he was not a language assessor himself but had many years' experience of social work practice including a management level role.

Mr Eric Opoku

Mr Opoku is a social worker and Founder & President of GHASWU (the Ghanaian Social Workers Union UK). He gave written evidence to the panel.

He drew attention to Ms Ayim's qualifications in English and also supported her appeal.

Professor Harry Ferguson

Professor Ferguson gave written evidence to the panel. He is Professor of Social Work in the Department of Social Work and Social Care at the University of Birmingham.

He has known Mary Ayim since she started her Masters in Social Work Research and Professional Practice at the University of Birmingham in 2019. He acted as her tutor on that programme and is also one of the supervisors for her current Doctorate in social work.

He described how Ms Ayim spoke fluent English since her arrival and said, that she is intellectually very able and achieved very high marks on her MA. He said that Ms Ayim is doing very well in her PhD and is now at the writing-up stage; she has publications in reputable peer-reviewed journals with citations; all her articles were completed using the standard academic English language. She was one of their postgraduate teaching assistants involved in small group Zoom teaching for the university research champions participating in the West Midlands ADASS research development programme. She taught research design, including evidence-based practice and critical practice, and prepared and compiled reading materials and resources in English. He concluded that "Mary Ayim understands, writes, reads, and speaks English fluently, and I fully support her registration as a suitably qualified social worker by SWE."

Professor Jerry Tew

Professor Tew gave written evidence to the panel. He is professor of Mental Health and Social Work Senior Fellow, NIHR School for Social Care Research School of Social Policy University of Birmingham.

He has been Ms Ayim's academic supervisor for her Doctorate Degree (PhD) in Social Work at the University of Birmingham since 2019. He reports that her English is fluent and as that she has published work in reputable peer-reviewed journals with citations. In our Social Work Department, she engages with departmental members and students using the English

language and teaches research design, evidence-based practice, criminological theory and critical practice as a postgraduate teaching assistant.

He reminded the panel that she completed her 60-day update of skills at SENDIASS, Birmingham City Council, and passed her assessment, a requirement by Social Work England for professional practice. She received high scores on her legal training and knowledge of social work laws, including Adult Social Care and Health Care laws, Mental Health Act, Equality Act, and Children's Act.

He confirmed that Ms Ayim worked part-time at Birmingham Children's Trust, performing all her roles and responsibilities using English per the Code of Practice on the English language requirement for public sector workers, Part 7 of the Immigration Act [2016].

He did not doubt that she can communicate effectively in English.

Mr Ibrahim Delair

Mr Delair gave evidence in writing. He has known Ms Ayim as a postgraduate research student from the University of Birmingham, UK and in his capacity as her Practice Educator/ Field Supervisor for her updating of skills to join the SWE register. He describes her being interviewed and making a presentation in English. He describes her English as fluent and says she has excellent writing skills. He described her work for SENDIASS (special education needs and disabilities – advice and support services)

Ms Jeewan Kala Gurung

Ms Gurung is an Associate professor at Coventry City University. She was Ms Ayim's school and work colleague and tutor for CPD sessions with social work students completing their placements at SENDIASS, BCC. She said that Ms Ayim attended CPD seminars and workshops she used to handle on behalf of SENDIASS and taught in English. She described Ms Ayim's work and describes her as fluent in spoken and written English.

Dr Bisola Grace Joloko (PhD)

Dr Joloko gave evidence by video link. She told the panel that she was an assistant professor of accounting at the University of Birmingham. She had known Ms Ayim since 2019. They had worked on projects together whilst both attending the same Masters course at the University of Birmingham. She explained that they communicated in English because it was their only common language. She recalled that on the course, on which they had met they had to write reports in English and they had secured a distinction in a report for which Ms Ayim had written the methodology section. She was confident that Ms Ayim's written English was of a high standard.

29. The panel on the 22 September 2023 quashed the appeal against the decision to require the completion of the English Language test and made the following decision:

“The panel had careful regard to the evidence set out in detail above. The panel was satisfied that this evidence showed that Ms Ayim was a fluent English speaker who had been educated in English, achieved a master’s degree at the University of Birmingham taught and examined in English and was about to complete a PHD at the same university.

The evidence summarised above came from a wide variety of sources and included people who were used to assessing written English in an academic setting and also used to assessing social workers.

The panel recognised that there was an advantage to maintaining a consistent process but found that there was a real likelihood it would cause significant injustice in this case. The panel's view was that the evidence before this panel was perfectly sufficient for the registrar to decide whether Ms Ayim had the necessary knowledge of English.

The panel notes that this cannot be conclusive but adds that it also observed Ms Ayim present her case throughout this hearing in faultless idiomatic English.

In all the circumstances, the panel was satisfied that it was right to allow this appeal. In so doing it quashed the decision of the registrar to require Ms Ayim to take an IELTS test exercising its power under Regulation 19 (6)(b).

It noted that the consequences of allowing this appeal are set out in Rule 18 and the registrar must now consider the question of whether Ms Ayim has the necessary standard of English having careful regard to the evidence before this panel, which must be made available to the registrar forthwith.”

Submissions:

30. Ms Ayim drew the panel's attention to the body of evidence set out above and submitted that the evidence was sufficient to demonstrate that her knowledge of English was perfectly adequate, and it was not necessary or right that she should be required to take the English language test. She indicated that the initial panel had quashed the requirement for her to undertake the English language test and she considered it wrong that she had now been asked again to complete this following the review of her application by the Registrar in accordance with Rule 18 of the Registration Rules 2019. She asked the panel to quash again the latest decision of the Registrar. Ms Ayim indicated that the position arose due to the failures of the regulator to include Ghana in the list of countries which were recognised as having English as a first and native language. Ms Ayim indicated that she considered this failure to include Ghana in the list of countries having English as a first and native language to infringe upon her human rights and to discriminate against her contrary to the Equality Act 2010. She submitted that the failure to include Ghana in the list amounted to indirect discrimination of her as a person with protected characteristics, namely her Ghanaian nationality and ethnicity.
31. Ms Ayim submitted that the list of countries where English was considered to be a first and native language was arbitrary. She indicated in her view that it was inconsistent that South Africa and Singapore were on the list and Ghana was not. She submitted that the arbitrary

nature of the list meant that the application of Rule 16 based on this list was not consistent but was arbitrary.

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33. The legal adviser confirmed that in preliminary conversation with Ms Ayim and Ms Holdsworth, Ms Ayim had indicated her concern that some documents referred to her academic qualifications having been obtained at Birmingham City University rather than Birmingham University. She was invited to make this point to the panel and accordingly she confirmed that her qualifications were awarded by Birmingham University and not Birmingham City University.

34. Ms Holdsworth submitted that the rules and scheme in place enabled Social Work England to achieve consistency in the way applications were dealt with and, if exceptions were made, it could give rise to a sense of injustice in other cases. Nevertheless, she reminded the panel of Social Work England's overarching objective to protect the public and submitted that ensuring only those who had the necessary knowledge of English became social workers, was an important part of that duty. Ms Holdsworth submitted that it would be wrong for the panel to consider matters which were unrelated to the application of the rules and regulations in question. The list of countries included in the publicly available guidance was a matter of fact and not a decision which the panel could seek to review in accordance with the Regulation 19 process.

Legal Advice

35. The panel heard and accepted the advice of the legal adviser, which it sets out below.

36. The panel was reminded of Social Work England's overarching objective to protect the public and that ensuring that only those who had the necessary knowledge of English were admitted to the register, was an important part of discharging that duty. The panel also accepted the advice that the protection of the public is more important than the fate of any single registrant or intended registrant of Social Work England as evidenced in the case of Bolton v Law Society 1993, in which the then Master of the Rolls, said 'The reputation of the profession is more important than the fortunes of any individual member. Membership of a profession brings many benefits, but that is a part of the price.' In this context he was speaking about the requirements for professionalism and integrity but satisfaction and adherence to entry requirements could also be viewed similarly as a price for membership of a profession

37. The panel also accepted the following advice.

38. Appeals are governed by Regulation 19 of The Social Workers Regulations 2018 (the Regulations).

39. In the context of applications for registration, Regulation 19 provides that a person may appeal:

- a) a decision to refuse to register a person under regulation 10(3)

b) a decision to require a person to undergo an examination or other assessment under regulation 11(4)(b) on the ground that the regulator was not satisfied that the person had the necessary knowledge of English.

40. The powers of a panel when considering an appeal are set out in paragraph (6) of Regulation 19 (6) The 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 to be disposed of in accordance with the adjudicators' directions.

41. The panel was also advised to consider the provisions of the Social Work England Registration Rules, which give rise to the appeal.

42. Rule 16 provides that to determine that an applicant has the necessary knowledge of English, the regulator must be satisfied that the applicant:

(1) has within the last five years passed a test of their knowledge of English that has been approved under the regulator's education and training approval scheme; or

(2) has within the last five years obtained an overall score of 7 or more in the International English Language Testing System (Academic) test; or

(3) has been registered and practising for at least one year within the most recent five years in a country where the regulator recognises English is the first and native language and an English language assessment was required for registration; or

(4) has obtained a **recognised qualification** within the meaning of schedule 1 to the regulations within the most recent five years that was awarded in a country where the regulator recognises English is the first and native language and can provide evidence that the qualification was entirely taught and examined in English.

43. Rule 17 provides that:

Where the regulator is not satisfied that an applicant has the necessary knowledge of English, it may take action in accordance with regulation 11(4).

44. Regulations 11(4) provides for 2 courses of action:

(4) In any case where the regulator is not satisfied, having considered any evidence, information or documents provided in support of their application for registration or renewal, that a person has the necessary knowledge of English to be eligible to be registered, or to continue to be registered, the regulator may —

- (a) request the person to provide further evidence, information or documents, and
- (b) require the person to undergo an examination or other assessment, and provide information in respect of that examination or assessment, provided that it notifies the person of their right to appeal under regulation 19(1)(b), within such period as is determined by the regulator in rules, and the regulator may draw such inferences as it deems appropriate if the person fails to undergo an examination or assessment, or fails to provide or disclose any evidence, under this paragraph.

45. Rule 18 provides that:

Where an applicant appeals successfully against the regulator's decision to require them to undergo further examination or assessment, the regulator must assess the application on the basis of:

- (1) the evidence already provided; and
- (2) any further evidence provided as a result of the appeal outcome in support of the applicant having the necessary knowledge of English.

46. The panel was advised that it should bear in mind that there was no dispute that Ms Ayim did not satisfy the conditions of Rule 16 because the country where she obtained her social work qualification was not on the list maintained by Social Work England of countries where English is "the first and native language".

47. The panel was advised that it could not examine whether it was right that Ghana was not on that list but it could look at all the evidence to decide whether it was right that Ms Ayim be required to take the English test on the evidence provided to the panel and the Registrar. In this regard the panel would be reviewing the decision of 13 October 2023. The panel were advised to consider the Social Work England Guidance "Adjudicators Guidance for Registration Appeals" which appears on the Social Work England Website, the current incarnation being dated 16 December 2022.

Panel decision:

48. The panel carefully considered all the documentation contained within the appeal bundle and took into account the submissions from both parties.

49. The panel noted that there was no question that Ms Ayim's qualifications and experience were not accepted by Social Work England and there were no issues regarding the credibility or authenticity of the documents in her appeal. The issue for the panel to determine is whether or not Ms Ayim is able to meet the English Language requirements contained in Regulation 11(2)(c) of the Regulations and whether the decision requiring her to undertake this test is correct.

50. In this regard the panel noted the decision of the first appeal held in September 2023 which quashed the initial decision in June 2023 to require the completion of the English language test. The panel therefore sought to determine whether a review under Rule 18 had been undertaken taking into consideration the requirements of Rule 18.
51. The letter within the registration appeal bundle at pages 43-49 from Joseph Stockwell detailed the process which had been carried out in order to review the decision of the panel dated 22 September 2023.

52. "Assessment

In accordance with paragraph 38 of the panel's decision and rule 18 of the Registration Rules 2019, we have now assessed your application for registration on the basis of the evidence already provided and the further evidence provided as a result of your appeal.

We note that the adjudicators instructed Social Work England to consider the question of whether you had the necessary standard of English having careful regard to the evidence. While we have considered the evidence you have provided, this does not demonstrate that you meet one of the four requirements for English language set out in the Rules. The reasons for this are set out below.

To determine whether you have the necessary knowledge of English, we are required to apply Rule 16 of the Registration Rules 2019:

16. To determine that an applicant has the necessary knowledge of English, the regulator must be satisfied that the applicant:

(1) has within the last five years passed a test of their knowledge of English that has been approved under the regulator's education and training approval scheme; or

(2) has within the last five years obtained an overall score of 7 or more in the International English Language Testing System (Academic) test; or

(3) has been registered and practising for at least one year within the most recent five years in a country where the regulator recognises English is the first and native language and an English language assessment was required for registration; or

(4) has obtained a recognised qualification within the meaning of schedule 1 to the regulations within the most recent five years that was awarded in a country where the regulator recognises English is the first and native language and can provide evidence that the qualification was entirely taught and examined in English.

Your application does not satisfy the requirements of rules 16(1)-(3). This is because you have not provided any evidence that you have undertaken a test of English which has been approved under the regulator's education and training approval scheme, successfully achieved the requisite grade in an IELTS test, or been registered and working in another country where the regulator recognises English as the first and native language.

Additionally, your application does not satisfy the requirements of rule 16(4). This is because you have not obtained a recognised qualification in the last five years which was awarded in a country where the regulator recognises English as the first and native language. The BA Social Work Qualification which you undertook at Kwame Nkrumah University of Science and Technology in Ghana between 25 August 2014 and 18 May 2018 is not accepted by Social Work England for the purposes of evidencing knowledge of English as we do not recognise Ghana as a country in which English is its first and native language. Further, neither the Masters in Social Research (Social Work and Professional Practice) awarded by Birmingham University nor the PhD currently being undertaken are qualifications approved by Social Work England.

For the reasons set out above, having considered the evidence provided (including that which was before the panel at your appeal), we are not satisfied that you have the necessary knowledge of English in accordance with rule 16 of the Registration Rules 2019.

In order for you to demonstrate that you have the necessary knowledge of English, we require you to undergo an English language assessment. If you wish us to progress your application further you must, within 28 calendar days, arrange an English language assessment and inform us of the date that this will take place. The date of the assessment does not need to fall within the 28 calendar days. We require a score of 7.0 or above in the academic version of the International English Language Testing System (IELTS) to demonstrate that you meet the standard necessary for registration.”

53. The panel noted that as set out in Rule 16 of the Registration Rules and the guidance published by Social Work England headed “Guidance for applicants who qualified overseas”, the only way in which Ms Ayim is able to demonstrate her proficiency and knowledge of English is via the language test. The panel considered that the guidance is clear and transparent for any individual making an application to be registered with Social Work England. The panel noted that there is no provision within the legislation that would permit the panel to make an assessment of Ms Ayim’s knowledge of English outside of Rule 16 of the Registration Rules. Nor does the panel have a discretionary power that would allow it to determine that Ms Ayim can meet the English language requirements for registration otherwise than in accordance with Rule 16 of the Registration Rules.
54. In the light of its findings the panel concluded that it should not draw any adverse inference from Social Work England’s failure to comply with the directions from the Case management meeting of 12 December 2023.
55. The panel therefore concluded that the decision made by the Registrar on 13 October 2023 to require the Appellant to undertake the prescribed English language test was correct.
56. The panel therefore dismisses the appeal of the Appellant.

Right of appeal:

57. A person may appeal to the County Court against a decision of the regulator under Part 3 of the European Union (Recognition of Professional Qualifications) Regulations 2015 or, in the case of a social worker falling within regulation 78(3)(a) of those Regulations, a decision

of the regulator under Part 3 of the European Communities (Recognition of Professional Qualifications) Regulations 2007, requiring an exempt person to complete an adaptation period, or pass an aptitude test, in connection with becoming entitled by virtue of that Part of those Regulations to have access to, and to pursue, the social work profession in the United Kingdom.

58. On an appeal under paragraph (9) the County Court may: (a) dismiss the appeal; 13 (b) quash the regulator's decision; (c) substitute for the regulator's decision any other decision that the regulator could have made; or, (d) remit the matter to the regulator to be disposed of in accordance with the directions of the Court, and may make any order as to costs as it thinks fit.