

## **Care Standards**

### **The Tribunal Procedure Rules (First-tier Tribunal) (Health, Education and Social Care) Rules 2008**

**Deborah Helen Borley**

**Appellant**

**v**

**Care Council for Wales**

**Respondent**

**[2012] 1995.SCW**

### **DECISION**

**Heard on 17 - 25 April 2013 at the Cardiff Magistrates Court, Cardiff before**

**Judge Meleri Tudur,  
Mr Chris Wakefield, Specialist Member  
Mrs Christa Wiggin, Specialist Member**

#### **Attendance and representation:**

The Appellant represented herself with support on various days from Mr Green, Ms Borley and Ms Devane.

Mr D Mortimer of Morgan Cole, represented the Respondent with Ms L Williams attending on behalf of the Respondent.

#### **APPEAL**

1. The Appellant appeals under section 68 of the Care Standards Act 2000 against the decision of the Conduct Committee of the Care Council for Wales (the Respondent) made on the 24 October 2012 that the Appellant was guilty of misconduct and to impose a suspension of her registration as a social worker for a period of 18 months.

#### **Preliminary Applications**

2. Mr Mortimer made a request for submission of missing documentary evidence, specifically the odd pages of the original notice of appeal and the case notes from the E

file. Ms Borley did not oppose the application on the basis that the evidence was an important element in the case. The application was allowed.

3. Ms Borley made an application for permission to call a witness who had submitted a witness statement in the proceedings to give oral evidence at the hearing. Mr Mortimer had indicated that he did not accept the evidence but that he did not consider it necessary to call the witness for cross-examination. In the circumstances, the Tribunal decided that it was in the interests of justice to allow the witness to attend to give evidence and allowed the application.

4. On the first day of the hearing, the Tribunal of its own volition made a restricted reporting order preventing the publication of any information which would lead to the identification of any individual in the proceedings, until the end of the hearing when the Tribunal would consider the need for a further order.

5. On the final day of the hearing, Ms Borley made an application for the hearing to be conducted in private because the presence of the complainants' family in the hearing room was intimidating to her. She stated very vehemently that she would be unable to give oral evidence in the appeal if they remained in the hearing room. Mr Mortimer opposed the request on the basis that the appeal was being conducted in a public hearing and that there was no reason for closing the hearing to be heard in private. The tribunal accepted that it was inappropriate to conduct the hearing in private, but given the Appellant's clear submission that she would not be able to and would not give oral evidence in the presence of the family, directed that Mr and Mrs E should be excluded from that part of the hearing pursuant to Rule 10(4) of the Tribunal Procedure Rules 2008 on the basis that a witness was likely to be unable to give evidence if they remained in the hearing room.

6. At the conclusion of the hearing, the tribunal considered the need for a further restricted reporting order, and concluded that the decision notice should not include any information which would lead to the identification of the children or their family.

## **THE LAW**

7. Section 56 of the Care Standards Act 2000 provides that the Respondent shall maintain a register of social workers.

8. Section 59 of the Act provides that the Respondent shall by rules determine circumstances in which, inter alia, a person may be sanctioned or removed from a part of the register.

9. The relevant rules are the Care Council for Wales (Conduct) Rules 2005.

10. Section 68 of the Care Standards Act 2000 provides that an appeal against a decision of the Respondent is to the Tribunal and on appeal; the Tribunal may confirm the decision or direct that it shall not have effect. The Tribunal shall also have power on an appeal to vary any condition, to direct that any such condition shall cease to have effect or to direct that any such condition as it thinks fit shall have effect in respect of that person.

## Background

11. The Appellant qualified as a social worker in 2005 and was registered with the care Council for Wales on 13 July 2005.
12. She worked as an agency social worker for Swansea County Council from 15 October 2008 until 22 August 2010 in the Child and Family Team, initially for three days a week until October 2009 when she started working on a full time basis.
13. It was an agreed fact that Swansea Child and Family Services had encountered significant problems since 2007 which were ongoing. These were highlighted in Care and Social Services Inspectorate reports for 2007 and 2008 and related to poor practice.
14. On the 21 October 2008, the Appellant was allocated the case of the E family, which arose from the placing of the two children A aged 6 and B aged 7 on the Child Protection Register following the acceptance by their mother [M] of a police caution for slapping Child B.
15. The case involved the acrimonious separation of the parents and their involvement in private law proceedings relating to residence and contact of both children. The family court requested a section 7 Children Act 1989 report from the social worker in those proceedings.
16. The case remained allocated to the Appellant until 2 May 2009, when it was transferred to another agency social worker.
17. The children remained on the child protection register until 2010.
18. In February 2009, the father, [F] made several complaints to the Swansea Social Services Department Chief Officer regarding the conduct of the case by social workers and the council. The Appellant was one of the social workers allocated the case. Over the course of the following months, a large number of complaints were made by the X family and the complaints became the subject of a Stage 2 investigation aimed at resolving the complaints and enabling the family to move on.
19. The Stage 2 investigator, Mr Paul Bevan was appointed on the 30 June 2009 and Bethan Pettifer was appointed as the independent person. The investigator commenced his interviews in September 2009. The final report was published in October 2010.
20. Following the publication of the report, the X family's paternal grandfather [Mr PG] made further complaints to the Respondent against the Appellant, resulting in an investigation by the Respondent.
21. The Appellant was the subject of an interim suspension order from February 2011 until the final hearing which took place between 24 September 2012 and 2 October 2012.

22. The Appellant did not attend the final hearing of the Conduct Committee and was not represented.

23. The Appellant had been charged with 6 charges, divided into 26 sub-limbs. The Conduct Committee found 20 of the sub-limbs proved and 9 not proved. The Committee made findings of misconduct in respect of all 6 charges.

24. The Conduct Committee imposed an 18 month suspension as the appropriate sanction for the misconduct. The suspension runs from 2 October 2012 to 1 April 2014.

## **THE CHARGES**

25. The Appellant was the subject of six charges sub-divided as follows (using the numbering of the Respondent's original charges):

1(a) Failed to record in the case files for children A and B and/or the PARIS computerised system:

- (i) Notes of your telephone calls with F and M on various unknown dates;
- (iv) A note of your visit to A and B's school on 18 November 2008
- (v) Notes of action you took when B fell down the stairs at M's house on 11 January 2009;
- (vi) Notes of action taken concerning claims that M had been swearing in front of A and B;
- (vii) Notes of any discussions with M and/or F regarding issues with A's health following the weekend of 29 November 2008 onwards;
- (xi) Notes of your visit to F, A and B on the 9 February 2009;

1(b) That having failed to record as set out above you are guilty of misconduct

Charge 2(a) With regard to the minutes of Core Group Meetings between 2 December 2008 and 29 April involving A and B:

- (i) Completed the minutes retrospectively on 24/25 June 2009;
- (ii) Failed to circulate the minutes to attendees of the meetings promptly;

Charge 2(b) That, having dealt with the Core Group minutes as set out above, you are guilty of misconduct.

Charge 3(a) Failed to adequately follow up incidents involving A and B more particularly:

- (ii) The allegation that M slapped B on 14 January 2009;
- (iii) The allegation that B was injured whilst not wearing his seat belt whilst travelling in M's car on 31 January 2009;
- (v) The allegation that M slapped A on 2 May 2009 for not eating his vegetables until prompted to do so by Diane Jones;

Charge 3(b) That having failed to adequately follow up incidents involving A and B you are guilty of misconduct.

Charge 4a) Failed to adequately assess the risks to A and B in that you:

- (i) Failed to carry out and/or record risk assessments;
- (ii) Failed to explain the risk assessment process to F;
- (iii) Required prompting from Diane Jones to risk assess M's contact with A and B;
- (v) Failed to provide F with a copy of a risk assessment.

Charge 4(b) That having failed to adequately assess the risks to A and B you are guilty of misconduct

Charge 5 Demonstrated bias in favour of M and against F in that you:

- (i) Treated M more sympathetically than F in your dealings with them
- (ii) Accepted information given to you by M without verifying the accuracy of the information.

Charge 5(b) That, having demonstrated bias you are guilty of misconduct

Charge 6a) Failed to co-operate with other professionals in that you:

- (iv) Failed to provide documentation to Diane Jones when requested to do so
- (v) Failed to cooperate with Paul Bevan during the course of his investigation in that you failed to respond on a timely basis to requests for meetings;
- (vi) Failed to provide information and/or documentation on a timely basis.

Charge 6(b) That having failed to cooperate with other professionals you are guilty of misconduct.

## **The Evidence**

26. At a preliminary hearing held on the 25 March 2013, the Appellant provided confirmation of her position in relation to each of the charges, and a revised Schedule of Findings Sought was prepared and agreed by the Appellant.

27. In relation to Charge 1(a)(vi), she admitted that she did not record the action taken but challenged that any finding in relation to charge 1 would amount to misconduct.

28. In relation to Charge 2(a)(ii) the Appellant accepted that the circulation of the minutes were her ultimate responsibility and that they had not been circulated and accepted that a finding of failure to minute the Core Group Meetings and circulate the minutes would amount to misconduct.

29. In relation to Charge 4(a)(v), the Appellant maintained that there was no risk assessment document to circulate and that the charge could not therefore be found proved against her.

30. In relation to Charge 6(b), the appellant disputed that the allegation even if proved amounted to misconduct.

31. In relation to all the other charges, the Appellant denied the charges but accepted that if found they would amount to misconduct.

32. The Tribunal heard oral evidence from nine witnesses for the Respondent and from four witnesses for the Appellant, and the Appellant herself. The Tribunal also had seven Lever Arch files of documentary evidence to consider. The Appellant prepared and submitted two very detailed chronologies running to 166 pages of A4.

33. The Tribunal had evidence that had not been available to the Conduct Committee, specifically the alternate pages, 2, 4 and 6 of the case note dated 2 February 2008 prepared by the Appellant and the Appellant's own oral and documentary evidence.

34. The Tribunal had before it the full bundle of documents prepared for the Respondent's Conduct Committee hearing, a full transcript of the hearing and the decisions as well as the bundle of documents prepared in the appeal.

## **CONCLUSIONS AND DECISION**

34. We considered the evidence presented in support of each of the charges and concluded in relation to each of them as follows:

Charge 1(a) Failed to record in the case files for children A and B and/or the PARIS computerised system:

(ii) Notes of your telephone calls with F and M on various unknown dates:

36. The Appellant admitted that she had not recorded all of the telephone calls with the parents and that a number of telephone calls were recorded in notebooks and on the shared drive rather than on the PARIS system. At the hearing, the Appellant's further oral evidence on the issue of recording was that it was not her practice to use PARIS even after she had been trained in it. She recorded information manually and placed it on a "pen-drive" and on to the shared drive. Many recordings produced in evidence showed that they had been copied onto the PARIS system at a much later date by administrative staff, providing corroboration to the Appellant that she was recording, but that it was not finding its way into the children's files.

37. Ms N Rogers, the Appellant's line manager gave evidence that the Appellant's training in the use of the PARIS system had been completed by the end of January 2009, according to the records produced by the council, but that social workers in the team were given freedom to record their work as they pleased and the use of the PARIS system was not obligatory. She described the different methods of recording including using notebooks, the use of a pen-drive and placing information on the shared drive.

38. Martin Roberts-Jones gave evidence that the Appellant had found a large number of telephone call notes in her desk drawer a long time after the case had been reallocated and Kave Sedeghat gave evidence that he had not seen the large number of calls logged which reflected the high volume of contacts from the family. He went on, however, to state that he did not consider that his management of the case had been hindered by the failure to record.

39. The investigation report of Paul Bevan identified that the large volume of telephone calls received from the parents was not reflected in any of the documentary evidence or the children's case notes. We accepted that admission but noted Mr Bevan's evidence that the alleged large volume of telephone calls received from the parents was not reflected in any of the documentary evidence or the case notes. We further accepted the evidence that some important telephone calls were not recorded by the duty team or reflected in the PARIS system for instance, the sequence of events when the Appellant returned to work on the 6 May 2009 and dealt with the alleged incident of injury to B in M's care over the previous weekend. The Appellant admitted that she had not recorded every call given the very high volume of them and challenged any practising social worker to say that they did so.

40. Whilst it is accepted the practice within the department varied considerably and that the failure to record on the PARIS system of itself could not be regarded as outside the parameters of acceptable conduct in that context, it is necessary for a social worker to identify what information may be relevant to the case and what should be recorded and the Appellant failed to do this in the particular case. It would be reasonable to record that there had been a large number of calls even if the detail was not reflected in the recording and it is particularly important to do so in a child protection case. We accept that the Appellant could not be expected to log every call, on the Appellant's own evidence she failed to record telephone conversations. What cannot be done with any certainty is to identify the dates and the importance of those calls, because no record was made of them.

(v) A note of your visit to A and B's school on 18 November 2008:

41. The Appellant's evidence in relation to the charge was that she had visited the school and that this could be confirmed by the contents of the section 7 report prepared in the private law proceedings and presented to the court in December 2008, as well as verified by the school staff who were present when she spoke to the children. The issue arising in the charge, however, is not the fact of her attendance but the absence of any record in the children's case file of the visit. Although the Appellant had requested the release of the section 7 report by the court for use in the Stage 2 investigation, F had refused to consent to its disclosure and it had therefore remained on the court file. It had not been available to Mr Bevan in the course of his investigation and it was not part of the evidence before the Tribunal.

42. The Appellant could not produce a copy of the case note, and although it is not in dispute that she attended the school, she was unable to produce any case or file note or recording of the visit and the fact of her failure to record is found.

(vi) Notes of action you took when B fell down the stairs at M's house on 11 January 2009;

43. The incident took place on the 11 January 2009, which was a Sunday and whilst the Appellant admitted that she did not record the action taken, she was not on duty on that weekend. Her evidence was that she was not working on the weekend and was not in the office on the 12 and 13 January but attended for the first time on Wednesday 14 January 2009, when the Core Group meeting was held. Her first knowledge of the alleged incident was therefore at the Core Group meeting, when she was informed that Child A had fallen downstairs at M's home, had been taken to hospital by F on his return home and that the incident had been reported to the out of hours team on Sunday.

44. The Core Group minutes for the meeting on the 14 January 2009 state under the heading "Health": "(F) attended A&E – details on file. M stated that her son fell down a couple of steps in her parents' home and bumped his leg. A&E accepted explanation regarding this."

45. The Tribunal was not presented with any evidence that the incident had been reported to duty at the weekend, and no recording in the case file of such a report. Similarly, there was no evidence of the Appellant checking the information with the hospital. The minutes refer to details being on file, but it is unclear from the minute which file is being referenced. However, if the issue was discussed at the Core Group meeting with both parents present and the incident minuted, with no dispute about the acceptance by the hospital of the explanation provided, F not recorded as taking issue with the information provided, then we are satisfied that the recording of the incident within the Core Group minutes was sufficient and that in a busy case, it is unlikely that further action would have been taken or necessary. The incident was not noted in the case records, but the Core Group minutes formed part of the records and would be sufficient record of the incident. We conclude that to record the incident and discussion of it was a sufficient recording and the charge is not found.

(vi) Notes of action taken concerning claims that M had been swearing in front of A and B:

46. On the 30 November 2008, F wrote to the head of service, Steve Hayes complaining that he had repeatedly told the Appellant that the children were privy to foul language by M and subjected to name calling by the maternal grandfather. F's evidence was that on the 4 January 2009, Child B had returned home from a contact visit upset and stating that M had sworn at him. His evidence to both Paul Bevan and to the Tribunal was that he had spoken to the Appellant about the matter and she had said that she would visit the child at home. At F's request she had agreed to visit the child at school.

47. The case notes produced in evidence for Child A, (the alternate pages of which were not in evidence before the Conduct Committee) record a school visit on the 4 February 2009, identified as a statutory visit and the note recorded that Child B had informed the Appellant "...he misses his mother but feels that her language is not good." and "...he doesn't like the way his mother talks to others with bad language cause its not nice." I asked him how he felt about that and he said he doesn't like it." Under the heading "Outcome", it was recorded "Adrian [the Acting Head] asked why I didn't delve deeper into what Child B had said about his mother's language. In response I knew I should have but I didn't want Child B to feel any pressure from me as it would lower his trust towards me...."



48. The Appellant's evidence to Mr Bevan in the Stage 2 report was initially that she had addressed this with M and that M had denied it. The case records did not verify that any action had been taken and based on the Appellant's own evidence, she did not record the action taken with M or the maternal grandfather in the files, but she did record the school visit to take account of the child's view, which was the action she had agreed with F she would take. There was no corroboration in the case notes of her statement to Mr Bevan that she had addressed this with M.

49. On the documentary evidence provided and the Appellant's own evidence, we conclude that the charge is found proved in that she did not record any action taken directly with M, although she did record the action agreed with F. The charge is proved in part.

(vii) Notes of any discussions with M and/or F regarding issues with A's health following the weekend of 29 November 2008 onwards;

50. On the weekend of the 29 November 2008, both children had a contact visit with M and on his return after the weekend, Child A was taken by F to hospital and diagnosed to be suffering from pneumonia. The Appellant's evidence was that she was unaware of the incident until it was raised at the core group meeting on the 2 December 2008.

51. In the core group minutes, the discussion about Child A's health and the events over the weekend is recorded, noting that A had been taken by F to A&E on his return and that he had been prescribed antibiotics. M agreed not to have contact the following weekend because he was unwell.

52. Having read the Core Group minutes and noted the conversation discussed, we have concluded that there was no further action that could have been taken in relation to the matter and no further action required once M had agreed to allow him to stay at home to recover from his illness on the subsequent weekend. The charge is not found proved.

(xii) Notes of your visit to F, A and B on the 9 February 2009

53. The Appellant's evidence in relation to this incident was that she and Peter Walsh had carried out a joint visit to F's home. The Health Visitor Jill Davies had been present at the time of their arrival, but the case notes do not reflect that a visit took place.

54. Peter Walsh, in his statement dated 25 February 2013, confirms that the visit took place but does not deal with the question of recording the visit.

55. Although the Appellant's evidence was that because it was a joint visit she did not check the minutes of the visit written by Peter Walsh, and that she assumed that he had written the minutes, the absence of any documentary evidence of a minute being written does not support her assertion. Peter Walsh was a support worker and the Appellant as the allocated social worker held responsibility for ensuring that the record of visit was compiled and we conclude that that the charge is proved.

Charge 1(b) That having failed to record as set out above you are guilty of misconduct

56. We have considered the evidence and conclude that not all the individual findings of failure to record would amount to misconduct. However, in a child protection case, there is a clear need to adequately record incidents and we conclude that the three charges found and one partly found are sufficient to justify a conclusion that there was a breach of paragraph 6.2 of the Code of Practice for Social Care Workers which is the requirement to be accountable for the quality of your work and take responsibility for maintaining and improving your knowledge and skills which includes maintaining clear and accurate records as required by procedures established for your work.”

Charge 2a) With regard to the minutes of Core Group Meetings between 2 December 2008 and 29 April involving A and B:

(iv) Completed the minutes retrospectively on 24/25 June 2009:

57. The statement of Peter Walsh confirms that it is likely that he wrote the minutes for each of the core group meetings from the 2 December 2008, and confirmed that he did write the minutes for the December meeting. He further confirmed that he regarded his role as minute taker to include writing the minutes and placing them on the system but nothing further than that. He stated that if the minutes recorded his attendance at core group meetings then it was likely that he would have taken the minutes.

58. In oral evidence, Ms N Rogers was definite in her evidence that it was she who obtained and circulated the minutes to the attendees in June 2009, when it was alleged that the minutes had not been circulated. She stated that she had simply circulated the minutes and that they were already on the system at that time.

59. The minutes produced in evidence record that Peter Walsh was present taking the minutes on the 2 December 2008, do not record his attendance on the 14 January 2009, record his presence at the meeting on the 23 February 2009 but not in April. The Appellant acknowledged that she did not check the minutes nor did she check that they were placed on the system.

60. On a balance of probability we have concluded that it is more likely than not that the minutes were already in existence prior to June 2009, and that on the basis of Ms Rogers’ evidence, she simply circulated them on a date in June 2009 after she received a complaint about the failure to circulate the minutes from Ms D Jones. We conclude that the charge that the Appellant retrospectively created the minutes in June 2009 is not proved.

(v) Failed to circulate the minutes to attendees of the meetings promptly:

61. The Appellant accepted that she had failed to circulate the minutes promptly, that she had failed to ensure that Peter Walsh did so and the admission of that failure is recorded in the Case Conference Review minutes for the 3 June 2009.

Charge 2(b) That, having dealt with the Core Group minutes as set out above, you are guilty of misconduct.

62. In view of the finding that the Appellant had failed to circulate the minutes and failed to ensure that Peter Walsh had circulated the minutes, we found that this amounted to misconduct, a finding which the Appellant herself had acknowledged. The purpose of a

Core Group is to ensure compliance with the child protection plan and to arrange amendments to it as the circumstances develop. Minutes will often include action agreed to be taken by the attendees before the next meeting, hence the failure to circulate the minutes promptly is a serious matter and is contrary to section 6.2 of the Code of Practice for Social Care Workers. Although in the initial stages of the Appellant's involvement in the case, it did not appear that any member of the core group raised the issue of late or absent Core Group Minutes thus drawing the Appellant's notice to the fact that they had not been circulated by Mr Walsh as she had expected, this was later raised by F and the health visitor in her report to the case conference dated 21 May 2009. Ms Rogers in evidence stated that it was Mr Walsh's first post in social work and that he was very inexperienced. The Appellant had not been made aware of this and therefore her expectations of him in regard to circulating the minutes were not met.

Charge 3a) Failed to adequately follow up incidents involving A and B more particularly:

(ii) The allegation that M slapped B on 14 January 2009:

63. Following the Core Group meeting on the 14 January 2009, M had midweek contact with A and B, and when they returned home, F alleged that B had reported being slapped by M during the contact session.

64. F's evidence was that he left a message for the Appellant which she did not return. His view was that the incident had not been sufficient to justify him taking the child to A&E.

65. The Stage 2 investigation did not disclose any case notes to the effect that a message had been left for the Appellant justifying a conclusion that she had failed to return F's call. The children's case file did not indicate a call to the duty team nor was there an indication that a message had been left for the Appellant. Mr Bevan's evidence was that he had been uncertain given the lapse of time from the 14 to the 23 January whether there had been one or two alleged incidents.

66. The Appellant's evidence was that she had been working on the 14 and 15 January 2009, but that she had not then been working on the 16 January.

67. Both Ms Rogers and Adrian Smith stated that there was no record in the case file in relation to the matter until the 23 January 2009. The documentary evidence indicates that Gill Davies, the Health Visitor had been informed of the incident by F on the 19 January 2009 but had not taken any action in relation to it. Her report indicates that she had discovered that the Appellant would not be working until the 21 January, but no action is recorded as having been taken by her, suggesting that she did not consider the incident sufficiently serious to warrant any further action.

68. The case notes confirm that on the 23 January, the Appellant contacted the school to identify whether any marks had been seen on Child B. The school confirmed that they had not seen any marks.

69. We consider that the delay in being given the information is significant, leading to a situation where there was insufficient evidence to justify a section 47 investigation. F had confirmed that the incident was not sufficient to justify his taking the child to A&E, so there

was practical follow-up to undertake with the hospital. The school was recorded as confirming that there were no marks seen on the child. In that situation, we are unable to identify what further steps would have been reasonable to take and find the charge not found.

The allegation that B was injured whilst not wearing his seat belt whilst travelling in M's car on 31 January 2009:

70. The Tribunal had the benefit of evidence relating to the incident on the 31 January 2009, which had not been available to the Conduct Committee. The incident involved an injury to Child A whilst not wearing a seatbelt and travelling in his mother's car. The case notes record a call on the 2 February 2009, confirming a police referral in relation to the incident and confirming that the Police would not be taking any further action. F's call on the 4 February is recorded and the Appellant visited the children in school on the same day and the conversation with the children is recorded.

71. The incident had been reported to the EDT on the 31 January but the information not acted upon. It was recorded that the hospital was satisfied that the injury sustained fitted with the child's account of events.

72. The Appellant's evidence was that Swansea had suffered a heavy fall of snow on the 2 February which led to her having to return home from the office early because of traffic disruption. She had been unable to get into the office on the 3 February because of the snow and consequently the 4 February was the first full day in the office when she was able to take action.

73. The file note recorded a police referral informing the department that A had a cut on this nose and enquiries had been made and the police were satisfied with the explanation and taking no further action. On the 4<sup>th</sup> February, there was a telephone call recorded from M stating that the police had visited following a complaint by F that M hit B. She then gave the Appellant her version of events and insisted that A was wearing his seatbelt at the time of the incident. M expressed her concern that A and B know how to unclip the seatbelts and tries to be strict with them. F took A to the hospital on his return and M reported and it was recorded in the notes that "..[M] version of events was acceptable with the injury A had sustained. No further action or concerns by police or the hospital."

74. A further file note dated the same day confirmed the Appellant receiving a telephone call from F claiming that M did not strap A in the car and stating that it was unacceptable. The Appellant was recorded as telling F that she would be visiting the school to see the children so they could tell her what happened. A further case recording dated 4 February confirms a telephone call from the child protection officer at A&E informing the department about A's attendance at the hospital on the 31 January 2009. All of the file notes were entered onto the PARIS system on the 17 May 2010 by a member of the admin team.

75. The Appellant's evidence was that the action taken was to visit the school to talk to the children and she spoke to F and to M. In oral evidence she clarified her view that she had taken on board the importance of the incident, had put in place support for contact handovers from Women's Aid, and when that had failed had further arranged a police

escort for contact handover. The purpose of the interventions was to reduce the stress for M and to enable her to focus on the safety of the children.

76. The Stage 2 report of Paul Bevan contains a typographical error in relation to the incident referring to Child A returning from contact with M on the 31 March 2009, instead of 31 January. He concluded that the Appellant had failed to follow up the incident until she received a call from M on the 4 February. He relies on an assumption that the EDT would have faxed the information through to the Appellant although there is no reference to evidence to support that supposition nor is there a record in the case notes of such information being shared.

77. We accepted the Appellant's evidence that she had been hindered by the weather in carrying out her duties on the 2 and 3 of February 2009, and that she took steps to investigate the incident on the 4 February when she was informed of the incident. She visited the children in school and recorded B's version of events and she spoke to both parents. She arranged for Women's Aid to attend on handovers and subsequently arranged a police escort when the Women's Aid support ended. The case notes record the telephone call with A&E and that the police were taking no further action in relation to the incident. The recording that M's version of events was acceptable to the hospital is factually wrong and there is no explanation in the hospital call of the findings there. In fact, the hospital confirmed that the injuries were consistent with F and B's version of events which was that A was not wearing a seatbelt at the time of the accident. What more could the Appellant have done in respect of the incident? She had received information that neither the hospital nor the police were proposing to take further action, and there is little that could have been done in that situation. Good practice would have led to the Appellant going back to M to stress the importance of wearing seatbelts on every journey and recording that that advice had been given to her. Her acceptance of M's version of events is at odds with everyone else's explanations, but in the context of a busy department, it is not unusual for such an incident to be dealt with in a similar fashion. Her follow up was adequate, although the record keeping and interpretation of information provided was not good. The major follow-ups were undertaken. In a busy department, expectations cannot be higher than that, and in the circumstances, further follow up may not have been possible or the expectation given the workloads of the social workers in the department. It is unlikely that a social worker would double check information from the hospital, where the department had received a message that there was no further action. What more could the Appellant have done? We conclude that there was nothing of any substance that she could have done to follow up the incident and the charge is not found.

(v) The allegation that M slapped A on 2 May 2009 for not eating his vegetables until prompted to do so by Diane Jones;

78. In order to reach a conclusion in relation to this charge, it was necessary for the tribunal to make findings of facts in relation to the sequence of events as they occurred. It is an agreed fact that the children had a contact weekend with their mother on the 2 May 2009 and that the contact was observed by the Children's Guardian on the 3 May 2009. The alleged incident occurred on Saturday 2 May 2009, when A sustained an injury to his back. Monday 4 May 2009 was a Bank Holiday and F underwent surgery in hospital on the 5 May 2009.

79. The tribunal heard evidence from F about the events. His evidence was that A and B had returned home from contact on Sunday 3 May and had not mentioned anything out of the ordinary. When bathing A that evening, he had found a deep abrasion on his shoulder and when asked how he had sustained it, A had told him that his mother had slapped him because he refused to eat his vegetables because they tasted like pig. He had been struck with such force that he had fallen off his chair. F was unequivocal in his evidence that he had telephoned the out of hours team on Sunday evening as soon as the injury to A's back had been seen to notify them of it. He then phoned them again on the Bank Holiday Monday 4 May. He was told by the duty social worker that he would pass on a message to the Appellant who would deal with the matter on her return to work.

80. F's evidence was that on the 5 May he phoned the Children's Guardian and left a message for her to contact him during the morning and again in the afternoon. He was in hospital all day and discharged himself that evening because of his concerns about the children. Ms Jones returned his call on Tuesday evening and told him that he should contact the Appellant about the incident. On the morning of the 6 May, he called the Appellant again, starting at 8am and left a message for her to return his call, because she had not been available in the morning. At some point, he spoke to Ms Rogers who said that the Appellant was aware of his message. At about mid-morning, he succeeded in getting hold of the Appellant. He perceived the Appellant's response to his call as dismissive: he stated that she accused him of nit-picking. He asked her why she hadn't returned his call sooner and she said that she had tried to.

81. In his written statement, F stated that he had phoned the Appellant but because he had no faith in her had contacted Ms Jones who had in turn contacted the Appellant. The statement did not contain any reference to calls to the out of hours teams or to calls on the Bank Holiday.

82. Ms D Jones, the Children's Guardian also gave evidence about the sequence of events in the days subsequent to the 2 May 2009. In her statement, she stated that F had contacted her to tell her about the incident alleging that Child B had been hit by M. F had lost faith in the Appellant and he believed that he would not get a fair hearing. She reported that F had told her that he had already told the Appellant about the incident but that she had told him it was "something and nothing". She phoned the Appellant "who was very difficult to get hold of" and left her "a number of messages" before the Appellant returned her call. The Appellant stated that she had spoken to M and that it was "no big deal". Ms Jones was shocked that the Appellant had phoned M. In the context of a mother who has accepted a caution for assaulting the child previously, any new allegation must be taken very seriously. Ms Jones was "horrified" and asked the Appellant why she was not following the All Wales Child Protection Procedures. It was then that the Appellant indicated that she would discuss the situation with her manager.

83. In oral evidence, Ms Jones confirmed that her statement had been made based on her recollection of events and without reference to any contemporaneous notes relating to the case. She described her initial impression of the Appellant when she became involved in the case: she was very open and honest, expressed her concern about M's vulnerability and described F as an aggressive and violent man and she had cautioned Ms Jones about

her personal safety whilst working with F. She also confirmed in evidence that in fact she had only met the Appellant three times over two and a half months, had exchanged some telephone calls with her and had only attended one core group meeting during that period. Her description of meetings in the case having to be abandoned and people being considered to be argumentative was not based on her own experience but on information from others.

84. At the hearing, Ms Jones recalled that she had contacted F to discuss how contact had progressed and had been informed that Child A had a mark on him that M had hit him. She advised him to contact the Appellant and he said that he had already done so and that she had said that it was “something and nothing”. She then tried to contact the Appellant herself and when she spoke to her was told that she had spoken to M and that it was not a big deal. She had asked the Appellant why the child protection procedures were not being followed to which she received no response.

85. Ms Jones explained that she could not become involved in reporting the alleged incident because she was acting as the children’s guardian and should not be the conduit through which an incident was reported, otherwise she would become a witness in the case. She explained that the appropriate procedure would have been to regard M as the potential perpetrator of abuse and to handle her with care. In her view, the incident should immediately have become a section 47 investigation and in a climate of accusations and counter accusations it was very important to work within the child protection framework.

86. The Appellant’s evidence was that she had been away from the office until the 6 May and had returned to attend a core group meeting in another case and had picked up her messages about F’s call when she returned to the office later in the morning. It was acknowledged that she had received the information about the injury at about 11am and she had contacted the maternal grandfather to ask about the weekend contact and had asked that M contact her to discuss the issue of the injury. M had called her and explained how the injury had been caused when B collected a football from underneath a plastic table in the garden. The Appellant had spoken to a senior practitioner about the case later that day and had referred the matter to the CAT team late in the afternoon, having spoken to the school about injuries first. The Appellant claimed that she had been unaware of the procedure within the local authority whereby all section 47 investigations are transferred to a dedicated team rather than the initial enquiries being conducted by the allocated social worker, as had been the practice in other authorities in which she worked. The senior practitioner had advised her of local practice when she had discussed the case and she had subsequently contacted the CAT team.

87. The case notes contained a record of the telephone conversation with F on 6 May stating that the Appellant received a telephone call from F who had just contacted D Jones and was advised to contact his social worker relating to his concerns over marks that B had on returning home from contact. It was recorded that the Appellant took the details and said that she would make enquiries. She asked him why he had taken until that day to disclose the information and he said that he wanted to think about it. A different version of the same case recording provided a more detailed record and described the injuries in detail. The outcome recorded was to contact D Jones for an update, contact M and seek

advice from the manager. The record shows a telephone call made to D Jones with no answer and a message being left. A second message is recorded and finally a conversation with D Jones where attention was drawn to the fact that F had taken three days to report the injury to the department. The Appellant informed her that she had decided to make some enquires to gain a fuller picture of what had happened and had cancelled a statutory visit to another child in order to visit Child B in school that day. The Appellant then discussed the case with the Senior Social Worker Claire and she had been informed that it was the Child Assessment Team who carry out the information gathering procedure. Claire advised her of the need to arrange a medical and provided details of the team responsible for undertaking the investigation. At the time of speaking to the senior social worker, it was already 3pm and too late to go to school to visit A. The assessment team decided to undertake a section 47 investigation and a medical was arranged, and a query raised by the CAT why it had taken the Appellant such a long time to refer the incident to them.

88. We considered the evidence and were concerned that there was no documentary evidence to support the suggestion by F and Ms Jones that the department had been aware of the allegations by F prior to his calls on the 6 May. Two of the case notes however record that the Appellant challenged F about the delay in notifying her of the allegation, to which he was recorded as responding that he wanted to think about it. If he had phoned the EDT, then it would be expected that he would have mentioned that to the Appellant when challenged about the delay and there would be EDT records and an investigation by EDT on the file.

89. The best evidence we have is that contained in the documentary evidence that the Appellant was aware of the allegation certainly by 11am on the 6 May 2009 and that she transferred the matter for the consideration of the CAT team at about 4pm having undertaken some of her own investigations into the matter. It is not in dispute that she did not follow Swansea's own procedures, and we have found on a balance of probability that it is unlikely that she was not aware of those procedures having worked in the local authority since the previous August. We were not directed to evidence about the Appellant's induction training into Swansea's child protection procedures, but neither did she provide evidence that she had enquired or briefed herself on local procedures, and some such action would be expected when she had worked in the department for about six months. We accept the evidence that it would be usual practice to conduct a strategy discussion on the day to gather information and decide who is carrying out any further investigations before contacting CAT. The Appellant did not discuss the case with her senior until 3pm on that day, when she was advised of the correct procedures. On the evidence presented to the Tribunal, we conclude that the sequence of events, on a balance of probability, is that after taking the call from F at about 11am and receiving information about an injury that was already about four days old, the Appellant cancelled another statutory case visit, contacted the school, contacted the maternal grandfather and the children's Guardian and started the process of gathering information for a strategy meeting, thinking this was her responsibility. She also had a meeting with her senior and spoke to M. Whether or not it was as a result of prompting by Ms D Jones, it was an unacceptable response to an injury to a child because, good practice is that it is not considered appropriate to contact the alleged perpetrator where there is an injury to a child without first of all identifying through a



strategy meeting whether a criminal investigation is warranted. The failure in our view was to follow up the allegation adequately in that she did not use the correct procedures. The charge was found proved.

Charge 3(b) That having failed to adequately follow up incidents involving A and B you are guilty of misconduct.

90. Having found that one of the three charges relating to a failure to follow up incidents involving the children proved, we conclude that this amounts to misconduct and is contrary to the provision of part 4 of the Code of Conduct.

Charge 4a) Failed to adequately assess the risks to A and B in that you:  
Failed to carry out and/or record risk assessments;

91. The tribunal heard evidence from Mr G Williams, independent chair of the review case conferences who explained that there is in Swansea no pro forma risk assessment form or a specific template risk assessment because in child protection work, risk assessment consists of ongoing risk analysis with the aim of minimising the risk of harm to the children in the case. He gave evidence that he was responsible for informing parents and families of the risk assessment process from the outset of the child protection process. Families are provided with leaflets and frequently asked questions explaining the process and they are required to attend case conference meetings about half an hour before the others in order that they can have a discussion with the independent chair and read the reports before going into the meeting. The explanation of the risk assessment process is not set out in the case conference minutes or anywhere else in the documentation presented in evidence but accepted Mr Williams' evidence about the matter, having found him a consistent, measured and reliable witness.

92. The Appellant denies that she failed to risk assess A and B and maintains that the ongoing process of risk assessment continued throughout her involvement in the case.

93. We carefully considered the documentary evidence in the case, which consisted of the case conference minutes, the core group minutes and case recordings. The initial report in December 2008 to the Case Conference review sets out an assessment of the risks, but thereafter we could not find clear records compiled during the period when the Appellant was involved in the case of the risks to the children being identified and analysed. By the time of the second case conference review, the Appellant had been replaced by Kave Sedeghat as the allocated social worker, but she prepared the social work report. The contents of that analysis is very similar to the December analysis and does not appear to update the position for the conference. Whilst in the December report, the Appellant was able to cite her recent involvement in the case for her scant information, the June report does not reflect that she carefully analysed the ongoing risk to the children and set out recommendations for minimising the risks to the children.

94. There is a risk assessment document presented by the independent chair of the Child Protection Conference, Mr Graham Williams dated 6 October 2008 which underlines and confirms his evidence to the Tribunal but this was Mr Williams' assessment and not the Appellant's. The core group minutes from the meeting on the 23 January 2009 set out various actions to be taken by those attending, but do not identify the action required to

move the case forward. Even if the minutes had contained the analysis and clarity to reflect the risk assessment, because the minutes were acknowledged not to have been circulated in a timely manner after the meetings, there was no opportunity for the core group to carry out its function of moving forward and developing the child protection plan in the absence of the minutes from one meeting to the next. There was also the absence of the Appellant's observation of contact with M until the end of April 2009 which, if undertaken sooner, would have further enabled her to carry out a full assessment and analysis. Although a number of recommendations were put in place: Women's Aid and the police were used in an attempt to reduce conflict at contact handovers and proposals for mediation and parenting classes as well as Barnados Family Group work these strategies were not entirely successful and not approved by all the professionals in the case.

95. We concluded that the documentary evidence available does not show that the Appellant was identifying the risks and then identifying action to address and minimise the risks to the children as was incumbent upon her as chair of the core group meetings. Whilst the evidence of her putting into place support for M by Women's Aid for instance, the documentary evidence does not reflect the group discussing what action was necessary, identifying appropriate strategies to address the problems through analysis and identifying the work to be done to address the issues by the next meeting. Whilst it may be correct to say that the court accepted the Appellant's recommendations in the section 7 report, that of itself was not sufficient to ensure an ongoing risk assessment in the child protection process. The documentation in the case does not reflect "joined up thinking" and because the recording of the information was poor, it cannot be established that there was robust and ongoing risk analysis and assessment during the period when the Appellant was allocated to the case. We have therefore concluded that the charge is proved.

(vii) Failed to explain the risk assessment process to F:

96. F's evidence to the tribunal was that the Appellant had failed to explain the risk assessment process to him at all during the time that she was allocated to the case. He explained in evidence that he had expected a risk assessment similar to a formal document his father used in another setting. He said "a risk assessment is a risk assessment is a risk assessment". He also said in evidence that he would have expected an environmental risk assessment to have been completed on the size of the room used for the December Core Group meeting when they were unexpectedly faced with having to use a small room as the booked room proved not to be available for the meeting.

97. The Appellant's evidence was that it was the responsibility of others, specifically the initially allocated social worker and the independent chair of the case conference reviews to explain the risk assessment process to F and not part of her role.

98. Mr Williams' evidence was very clear that he had taken time to explain the risk analysis process to the family in advance of the case conference review meetings and provided leaflets and information about the process. He confirmed that he had provided the same information every time he chaired one of the five case conferences which had taken place during the time when the children remained on the child protection register.

99. We were impressed with the evidence of Mr Williams who was very measured and clear in his account of the steps taken to inform the family of the process and to ensure their ongoing understanding at the case conference meetings. We did not accept however that this absolved the Appellant from a duty to reinforce F's understanding of the process of risk analysis and assessment. His own evidence showed that he had not taken on board the explanation provided to him of the process and had the Appellant reinforced the information provided in the pamphlets and the discussions before the Child Protection Case Conferences, then his expectations might have been managed. There was no record of such information being shared with him and her own admission was that she had not done so and did not regard it as part of her role to do so. We disagree, and conclude that this charge is proved.

(vii) Required prompting from Diane Jones to risk assess M's contact with A and B:

100. It was not in dispute that the Appellant did not carry out an observation of contact between M and the children until the 22 May 2009. By that time she had been the allocated social worker for a period of six months.

101. The Appellant's evidence was that it had been her intention to carry out an observation of contact between M and the children, but that she was unable to observe contact at the weekend because social workers did not have insurance cover and weekends were covered by EDT in Swansea. As a part-time worker she was not always available on a Wednesday when midweek contact took place. Her first conversation with Ms D Jones about the case had taken place in mid-March and the Appellant denied that it had been only at her prompting that she had arranged observation of contact.

102. Ms Jones' evidence was that she had asked the Appellant how she was able to risk assess contact if she had not yet observed it? She further gave evidence that the Appellant had been "shocked" by what she had observed during the contact on the 22 April 2009, having expected a much better level of parenting by M.

103. We had serious concerns about the quality of Ms Jones' evidence, relying as she did on her recollections of the case without reference to any case notes or contemporaneous documentary evidence, when she deals with many child protection cases, and five years having passed since the incidents discussed. We were concerned about her generalisations, such as saying that "meetings had to be abandoned" giving the impression that this was a recurring phenomenon, when it was documented to have happened to one meeting only, and reliance on hearsay such as stating that those who spoke in favour of F were deliberately excluded from meetings, when this could not be substantiated from the evidence presented. We were unable to rely on her evidence of a direct link between her conversation with the Appellant and the arrangement for observation of contact although it is not denied that the observation did not take place for a period of six months after the case had been allocated to her.

104. If it had been the Appellant's intention to undertake an observation of contact, then that planning was not reflected in any of the minutes or case notes, and not confirmed in any of the documentation produced in evidence to the tribunal. Nor can we rely with

confidence of the evidence of Ms Jones for the reasons set out in paragraph 102 above. We find on a balance of probability that the charge is not proved.

(v) Failed to provide F with a copy of a risk assessment

105. F's evidence to the tribunal was that the Appellant failed to undertake any risk assessment during the case and his example was a failure to risk assess the room used for the Core Group Meeting on the 2 December 2008. He alleged that the room was too small and should not have been used for the purposes of the meeting.

106. It seems that F was looking for an engineering-type risk assessment, where a matrix sets out the risks and the remediating outcomes. A reference to risk assessment in the context of child protection is not to such a document but rather to an ongoing process applied throughout the lifetime of the case.

107. It was confirmed in oral evidence by Ms Rogers that there was no single risk assessment template or document in existence in the case. Paul Bevan in his report accepted the evidence that a single document risk assessment did not exist in the case. It was recorded in the Stage 2 report that Leanne Ahern had told the X family that there was a risk assessment. When they contacted the department to ask for a copy of it, someone within the department should have taken the trouble to explain that a single document risk assessment did not exist. It is that action which is neither recorded nor is there evidence of its being done.

108. We have concluded that the responsibility for explaining the position in relation to the risk assessment and ensuring that the information was clearly communicated to the family about its non-existence should have fallen to the Appellant as the key worker in the case. That was not the formulation of the charge however, and since there was no risk assessment document to produce to the family, the charge is not proved because the Appellant cannot produce that which does not exist.

Charge 4(b) That having failed to adequately assess the risks to A and B you are guilty of misconduct:

109. We have set out above our analysis of the evidence and conclude that a failure to conduct ongoing risk assessments of two young and vulnerable children is a serious matter and is misconduct contrary to section 4 of the Code of Practice for Social Care Workers.

Charge 5 Demonstrated bias in favour of M and against F in that you:  
Treated M more sympathetically than F in your dealings with them:

110. The Appellant's evidence throughout the appeal has been that both parents in the case were a risk to the children. She gave evidence that this was reflected in the section 7 report and the recommendations contained in it as written in December 2008, but the document itself was not in evidence before the Tribunal. However, her reports to the Child Protection Case Conferences in December 2008 and June 2009 were in evidence and appear to have been accepted as fair by the conference without any suggestion of bias.

111. The evidence presented was that the allegations of bias arose between December 2008 and May 2009. It was specifically from January 2009 that the X family started to

allege that F was not being heard, an earlier complaint on his behalf made by Mr PG was retracted for fear of possible reaction by the social worker. F's evidence was that after December he no longer saw any point in reporting incidents to the Appellant because she did not take any notice of what he said.

112. Allegations of bias supported by three different professionals involved in the case are relatively unusual. Both D Jones and K Sedeghat were vociferous in their evidence that the Appellant was biased in favour of M and against F. Ms Jones cited the failures to verify M's allegations and the Appellant's continuing assertion that F was the perpetrator of domestic abuse although she could not identify a factual basis for believing the allegations. Ms Jones reported that the Appellant's line manager had confirmed her view that the Appellant was biased in favour of M when she raised the matter with her at the beginning of May 2009. Her final example was that of the strategy meeting in June 2009, when the Appellant had started informing the police officers at the meetings of F's aggression and violence and Ms Jones had been obliged to bring the meeting back to the issue under consideration which was the allegation of M slapping B on the 2 May 2009.

113. Kave Sedeghat considered that the handover conversation where the Appellant had described F as a violent and aggressive man was a clear indication that she was biased against him, and was firm in his conclusion that she was biased in this case. His description of the Appellant conducting the case with a focus on "feminist issues" caused some surprise, since the panel did not accept that bearing in mind the possibility of domestic violence in a case could be described as such.

114. Ms Rogers in oral evidence could not recall a conversation taking place with Ms Jones about the Appellant's perceived bias. Ms Rogers gave oral evidence that she regarded the Appellant as "pro-mum", but not to such an extent as to say that she was biased in her favour. Ms Rogers confirmed in evidence that the section 7 report in her opinion was fair and balanced.

115. M's evidence was that she did not perceive any bias on the part of the Appellant and that she had felt during the time when the Appellant had conduct of the case that she was being heard and provided with an opportunity to express her views. She had subsequently felt marginalised by the other two male social workers who had succeeded the Appellant as the allocated workers. She attended all of the core group meetings during the time that the Appellant was allocated but had not felt enabled to do so with any of the other social workers who succeeded her. The Tribunal also heard oral evidence from the maternal grandfather who confirmed that he did not perceived the Appellant to be biased in favour of M.

116. Mr Adrian Smith, deputy head of the children's school, was recorded by the Appellant as challenging her on the 4 February 2009 for not pursuing child B's concerns about his mother's use of foul language when he raised it with the Appellant.

117. We have considered the evidence and conclude that there are several documented examples of the Appellant accepting without question the explanations for incidents put forward by M, when that was contrary to the general view: in relation to the seat-belt

incident, she accepted M's explanation that the injury had been caused by A having his finger up his nose, despite the fact that the A&E department's note and the police had confirmed that the injuries were consistent with the child not having a seat belt fastened at the time of the accident. Similarly, the evidence of child B that A had been without a seatbelt, whilst recorded, was qualified and the case note reflects the Appellant justifying M's failure to ensure that the seatbelt was fastened rather than addressing this issue directly with M to ensure that it did not happen again. The issue of M's foul language, raised by both F and Child B at different times was not pursued although recorded.

118. On the 6 May 2009, the Appellant took the allegation made of M slapping B to the maternal family to ask for their version of events. This was in direct contrast to a previous incident when M alleged an incident at contact handover, which was supported by the Women's Aid worker's statement, but F was refused the opportunity of commenting or providing any information about his version of events because the Appellant's manager had told that the incident was not to be discussed at the Core Group and this was stated at the outset of the meeting. There was a comment in the case notes by the Appellant that the reports against F in relation to this incident were "damning reports", reflecting her acceptance of their content.

119. We conclude that the evidence supports the conclusion that there was a bias, either consciously or unconsciously, by the Appellant in favour of M and against F, possibly because she perceived F as a bully and was unable to work with him and saw M as co-operative and was able to work with her. Her perceptions of the two as individuals influenced the way in which she worked and that is seen and can be interpreted as bias. We accept that the Appellant realized in early 2009 that she was intimidated by F and was unable to manage the case well because she could not manage F. Her perception of F as a difficult individual to work with was corroborated by the previous social worker allocated to the case, Ms Hayley Hewitt. In oral evidence she described F as questioning her assessment of an emotionally abusive relationship between M and F and stated that she had take a second worker with her to visit because of the aggressive manner in which F communicated with her. Ms Hewitt further stated that she found F aggressive with M and that she perceived him to have a very different manner with male colleagues as compared to herself.

120. The Code of Conduct 6.3 and 6.4 were correctly applied by the Appellant and she sought support and help which she didn't get from the department, for instance, when she requested a manager to chair a core group meeting in her place. She stated in evidence that she had requested three times for the case to be transferred to another social worker before this was eventually done. However, she should have been alert to her own prejudices and ensured that her difficulties with F did not impact on her ability to retain the focus of the case on the children. The Appellant's evidence was that all her efforts were to maintain contact between M and children and she was successful in achieving this, a feat that was not achieved by subsequent social workers. F perceived her work with M to get her to attend meetings and maintain engagement and contact as bias. It is our view that what started out initially as an effort to ensure that both parents remained engaged in the child protection process, over time tipped into a situation where M was being treated more sympathetically for instance in the acceptance of her evidence in relation to incidents, and

F less so, because of his aggressive presentation to the Appellant. Social workers have to deal with difficult clients and must develop strategies to cope with difficult behaviour to avoid bias against them and to ensure fair treatment. This charge is found proved.

(iii) Accepted information given to you by M without verifying the accuracy of the information.

121. When considering the documentary evidence in the case, it became clear that there was an element of the Appellant being unable to analyse the information that she received in the case and was simply recording it as she was told. There are examples of this being true of both parents, but the Appellant certainly gives the impression of being more likely to challenge F's version of events. Examples of her inability to verify information obtained from M was the seatbelt incident, the allegation of slapping on the 2 May and the issue of alleged swearing in front of the children by M. For those reasons we conclude that the charge is proved.

Charge 5(b) That, having demonstrated bias you are guilty of misconduct:

122. It is our conclusion that there is evidence of bias in favour of M and against F from December 2008. From that time, the Appellant was seeking support from the department to assist her in managing the case, but that support was not forthcoming. It is our conclusion that the conduct displayed was such as to amount to misconduct contrary to section 6 of the Code of Practice.

Charge 6a) Failed to co-operate with other professionals in that you:

(viii) Failed to provide documentation to Diane Jones when requested to do so:

123. The charge is based on a single allegation that the Appellant failed to provide a copy of an initial assessment document when asked to do so. The evidence of both the Appellant and Ms Jones was that the relevant document had been shown to Ms Jones electronically at the meeting in the office, but that due to printer difficulties, the Appellant was unable to provide a copy immediately and did not do so subsequently. Ms Jones eventually obtained a copy through her solicitor.

124. The evidence about the factual sequence of events is not in dispute and was confirmed by both Ms Jones and the Appellant at the hearing.

125. We find that the appellant did not provide the document to Ms Jones, but conclude that this of itself does not constitute misconduct because she had shown the contents of the document to Ms Jones electronically, and a copy of the document was made available to Ms Jones at a later date. In such a busy and high volume case, such a failure to provide the document would be understandable and would not amount to misconduct.

(ix) Failed to cooperate with Paul Bevan during the course of his investigation in that you failed to respond on a timely basis to requests for meetings;

126. Within the documentary evidence provided to the Tribunal were copies of emails exchanged between the Appellant and Mr Bevan in relation to the meetings required to conclude the Stage 2 investigations.

127. Mr Bevan and Ms Beveridge confirmed in evidence that at the start of the Stage 2 process, the Appellant had been very keen to engage in the investigation and had actively sought interview dates, before Mr Bevan was ready to start his interview process.

128. The Appellant's evidence was that she found the second interview with Mr Bevan very stressful and traumatic, although she had not indicated this to him. Her recollection was that Mr Bevan had called frequent breaks because of her distress, although he did not have the same recollection.

129. The emails indicate that after the second interview on the 24 November 2009 (wrongly referred to as the interview of the 1 December in the Stage 2 report) that the Appellant's attitude to the process changed, and she indicated that she did not consider that she had anything further to add to the investigation. Although it is clear that she tried to find suitable dates for a further interview up to February 2010, we conclude that from about that time, her engagement with the investigation process waned, and she no longer sought dates for the final interview and did not want to engage with the process any further.

(x) Failed to provide information and/or documentation on a timely basis.

130. The evidence of Mr Bevan and Ms Beveridge in relation to this allegation was clear and supported by the copies of emails from the Appellant. The Appellant had indicated at her interviews that she had further documentary evidence in the case that she wished to provide to Mr Bevan, yet when provided with deadlines for their presentation, failed to do so and further failed to comply with further deadlines as well.

131. On the basis of the documentary evidence and the evidence of the Appellant herself, we find that she failed to provide information and documentation on a timely basis.

Charge 6(b) That having failed to cooperate with other professionals you are guilty of misconduct.

132. We considered the extent to which the Appellant had withdrawn her engagement with the investigator in the Stage 2 process and noted that she appeared to have failed to understand or misunderstood the purpose of the process for the organisation within which she was working. Stage 2 is part of the local authority's formal complaint process, and as such requires the continuing engagement of the professionals involved in order to attain resolution of the issues. At some point in the process, the Appellant formed the view that she could not contribute further or did not wish to contribute further, and to do so delayed the conclusion of the process as far as she was concerned. Although there were other interviews to be conducted by Mr Bevan, the number of complaints considered was extensive, and involved complaints against others. Had the Appellant continued her engagement with the process, then as far as she was concerned it could have been concluded sooner.

133. We have concluded that the Appellant's failure to maintain her initial engagement with the Stage 2 investigation process, her failure to comply with deadlines and produce relevant information to Mr Bevan as part of his investigation in a timely fashion, hindered the process and probably added to her own stress in relation to it. To hinder the employer's formal complaints process either deliberately or due to a withdrawal of



engagement we have concluded amounts to misconduct, contrary to part 6.54 of the Code of Conduct.

134. The Social Care Wales (Conduct) Rules 2005 Rules provide:

“ In deciding what sanction is to be imposed, the Committee shall take into account:

- (a) the seriousness of the Registrant’s misconduct;
- (b) the protection of the public;
- (c) the public interest in maintaining confidence in social care services; and
- (d) the issue of proportionality.”

135. We have considered all the evidence in the appeal and found 19 of the charges against the Appellant proved although we have also found 7 not proved. Taking the evidence about the working conditions into consideration, we noted that she was at the time working in a failing department which was in special measures and which had been failing for some time. She had sought assistance from her employer to support her in the conduct of the case and although provided with a minute taker for the core group meetings, had not been allocated managerial support when requested and Ms Rogers explained that if it was not provided it was because there was a shortage of resources within the department.

136. There was a further complicating factor in relation to the issues arising in relation to paperwork and recording, and it is that the Appellant at that time had recently been diagnosed as dyslexic. Ms Rogers confirmed that the department was aware of her difficulty but the employer did not provide any particular or targeted support to assist her in recording her work or ensuring her paperwork was in order. The Appellant did not ask for help in that particular area, outside of the core group meetings, and Mr Bevan was unaware of the condition or the difficulties it caused to the Appellant. It may however go part way to explain her difficulties in dealing with the Stage 2 paperwork within the deadlines provided and the same pattern of failure to comply with deadlines in relation to paperwork and difficulties in managing large quantities of documents manifested themselves in her preparation of the appeal, with extensions of time provided on several occasions to accommodate the Appellant’s disability.

137. In the Appellant’s favour were the favourable reports of her work in other cases by Ms Rogers and the complexity of other cases with which she was dealing at the same time. She had a caseload of about nine cases at the time, and we have not been made aware of any complaints arising from her work on other cases, and she was later given a full time contract and remained working for the local authority for a significant period after her allocation to the X case had been removed.

138. Other factors which may have impacted on the Appellant’s ability to deal with the issues in the case effectively was her status as an agency worker and her part time status which had not been clearly communicated to those with whom she was working, particularly the X family. There were also other issues within the department: we heard evidence from Mr Martin Roberts-Jones which suggested that some of his conduct within the context of the Swansea local authority had been less than professional and there may

have been a culture of practice falling short of best practice within which the events complained of were happening.

139. We considered whether the tariff imposed by the Respondent was a reasonable one in the light of our findings: the Appellant's case was that she was being disproportionately punished given that she had been the subject of a six month interim suspension whilst the Respondent gathered the relevant evidence in the case and that a further 18 month suspension was excessive.

140. We took into consideration the fact that this was a child protection case and that the findings involved failures in dealing with issues adequately relating directly to alleged injuries suffered by the children. Such conduct has a potentially detrimental effect on the welfare of the children concerned and is in our view a serious matter. In that context, we concluded that an admonishment would not be an appropriate tariff for the case.

141. We concluded that suspension of the Appellant's registration was an appropriate tariff and that the charges found by the tribunal were sufficiently serious to warrant a significant length of suspension. The purpose of such a suspension would be to enable the Appellant to reflect on her conduct of the case, her response to the Stage 2 investigation and to consider what lessons could be learnt from the findings of the various bodies who have looked into the conduct of the case? She did not demonstrate in the course of the appeal any clear insight into the matters that led to the complaints made, the purpose of the Stage 2 investigation and only a limited acceptance that there were failures in her own conduct of the case or reflection on how such failures could be remedied.

142. The proportionality of the length of the suspension was challenged by the Appellant, on the basis that it had deprived her of earning a living for a period of two years in total. The longest suspension that could be imposed on the Appellant would be for a total of two years, not including the period of interim suspension whilst awaiting the Conduct Committee hearing. Having found the majority of the charges proved, it is our conclusion that the tariff imposed by the original committee was appropriate, reflecting the seriousness of the misconduct and providing ample time for the public to be protected whilst the Appellant reflects on and learns from the experience in the case to improve her future practice as a social worker.

143. We therefore confirm the suspension of registration as imposed by the Respondent at the original hearing, and it shall stand until April 2014.

## **DECISION**

**The appeal is dismissed.**

**Judge Meleri Tudur**

**Tribunal Judge Care Standards**

**Dated 16 May 2013**