First-tier Tribunal Care Standards

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

Heard at the Royal Courts of Justice on:
12 to 16 September 2022 face to face and in part via video link
And on 30 September 2022 via video link

NCN: [2022] UKFTT 388 (HESC) **[2022] 4499 EY**

BEFORE:
Ms Siobhan Goodrich (Judge)
Mrs Libhin Bromley (Specialist Member)
Dr Elizabeth Walsh-Heggie (Specialist Member)

B E T W E E N

SAMIRA OFIKWU

Appellant

And

OFSTED

Respondent

DECISION AND REASONS

Representation
The Appellant: Mr Peter Gilmour, Counsel, instructed by Stephensons Solicitors
The Respondent: Mr Praveen Saigal, Solicitor/Advocate, Ofsted

The Appeal

1. This is an appeal against the decision made by Ofsted on 17 December 2021 under Section 68 of the Childcare Act 2006, to cancel the registration of the Appellant to provide childcare on domestic premises on both the compulsory and voluntary parts of the Childcare Register.

The Parties

2. The Appellant's background is set out in her witness statement. In summary, the Appellant has a BA in Education awarded in Nigeria. After working as a housekeeping manager in a hotel, she worked as a supply teacher on long term supply contracts for some six years. She became interested in childcare and studied Early Years Practice at the Open University Birmingham, gaining a certificate in July 2009. in May 2011 she was awarded Early Years Professional Status by Tribal Education Ltd on behalf of the Secretary of State for Education. She was employed as a nursery manager at Alphabet House between June 2010 and June 2013.

3. As will be seen later the Appellant went on to be registered in her own right to provide childminding and, thereafter, nursery care in different locations. Each of these settings became the subject of enforcement action by the Respondent which culminated in the suspension of both registrations in 2017. In the event the Appellant resigned each of these registrations in 2017.

4. In September 2020 the Appellant applied online, and was registered, to provide childminding services at 58 Mortlake Road, Ilford, Essex IG1 2SX. The Respondent's case is that the application was approved on 17 September 2020 without Ofsted having accessed the full history concerning previous registrations. It is said that this was due to human error within Ofsted's administration. It is important to note that there is no suggestion that the Appellant failed to provide any details of her registration history in her application.

5. The Respondent is the Office for Standards in Education, Children's Services and Skills (Ofsted) and is the regulatory authority for childcare providers. Amongst other matters, Ofsted's role is to establish whether the person or entity registered continues to meet the requirements for registration under the Regulations made pursuant to the Childcare Act 2006 and remains suitable for registration.

Restricted Reporting Order

6. During the hearing the Tribunal made a restricted reporting order under Rule 14(1) (a) and (b) of the 2008 Rules, prohibiting the disclosure or publication of any documents or matters likely to lead members of the public to identify the children to whom reference was made. That order continues. In this decision we will anonymise names by using initials to protect the interests of young children.

The Decision under Appeal

7. In summary, Ofsted decided on 17 December 2021 that the Appellant is no longer suitable to remain registered as a child minder due to her repeated failure to comply with the requirements imposed by regulation. The Notice of Decision to cancel registration traced the Appellant's history as a registered provider and set out current concerns following an inspection on 15 July 2021 and an interview conducted on 28 September 2021. The concerns included that the Appellant had minimised safety risks which were present for children and had said that the inspector on 15 July 2021 was being "overly fussy". The Respondent considered that at interview the Appellant had

continued to demonstrate a lack of understanding of the importance of making resources available to children. She had continued to refute actions that had been raised by Ofsted. She did not demonstrate she understood the seriousness of the breaches in her compliance history.

8. Ofsted considered that the Appellant had demonstrated, both recently and historically, that she: had failed to be open and transparent with Ofsted; did not accept failures in her practice; blamed others for not achieving good outcomes at inspection, and had made unwarranted accusations against inspectors.

The Appeal

9. In summary, the grounds of appeal lodged by the Appellant include that: Ofsted relies on historic concerns which had already been addressed to its satisfaction; Ofsted could have refused to accept the Appellant's resignations in 2017 and/or her registration application in 2020; the allegation that she shook a baby in May 2017 was a malicious, false allegation by a disgruntled former employee; the police and the Disclosure and Barring Service (DBS) did not take any action against the Appellant; the recent concerns arising out of the inspection in July 2021 have been addressed – a new secure fence has been built and a good range of resources is available.

The Law

10. The legal framework for the registration and regulation of childminders is to be found in Part 3 of the Childcare Act 2006 ("the Act").

11. Section 32 of the Act provides for the maintenance of two childcare registers. The first register ("the Early Years Register") includes "other early years providers" registered to provide early years childcare for children (from birth to the age of five years) for which registration is compulsory. The second register, with which we are concerned in this appeal is "the General Childcare Register". This is divided into two parts: A register which contains those providers registered to provide later years childcare for children aged between 5 and 8 years for which registration is compulsory ("the compulsory part"). A register which contains those providers registered to provide later years childminding/childcare for children aged over 8 years for which registration is voluntary ("the voluntary part").

12. Section 68 of the Act provides for the cancellation of a person's registration in certain circumstances. Section 68(2) provides that Ofsted may cancel registration of a person registered on either part of the General Childcare Register, if it appears:

> *(a) that the prescribed requirements for registration which apply in relation to the person's registration under that Chapter have ceased, or will cease, to be satisfied:*
>
> *(b) …*
>
> *(c) that he has failed to comply with a requirement imposed on him by regulations under that Chapter.*

The General Childcare Register

13. The prescribed requirements for Later Years registration are provided for by Part 1 of Schedule 2 of the Childcare (General Childcare Register) Regulations 2008 and include that:

    - The applicant is suitable to provide later years provision (paragraph 1).

14. The prescribed requirements for "other childcare providers" are provided for by Part 1 of Schedule 5 of the Childcare (General Childcare Register) Regulations 2008 and include that:
    - The applicant is suitable to provide later years provision (paragraph 1).

15. "Harm" is defined in regulation 13 of the Childcare (Early Years and General Childcare Registers) (Common Provisions) Regulations 2008 as having the same definition as in section 31(9) of the Children Act 1989. This refers to harm as:

    "ill treatment or impairment of health or development, including for example impairment suffered from seeing or hearing the ill-treatment of another." "Development" means physical, intellectual, emotional, social or behavioural development.
    "Health" means physical or mental health.

Right of Appeal

16. The right of appeal against the decision lies under section 74 of the Childcare Act 2006. This provides that (as applicable):

    "74 Appeals

    (1) ….. a registered person may appeal to the Tribunal against the taking of any of the following steps by the Chief Inspector under this Part—

    …..

    (e) the cancellation of registration.

    …..

    (4) On an appeal the Tribunal must either—

    (a) confirm the taking of the step…..or

    (b) direct that it shall not have, or shall cease to have, effect.

    (5) Unless the Tribunal has confirmed the taking of a step mentioned in subsection (1) (a) or (e) or the making of an order under section 72(2) cancelling a person's registration, the Tribunal may also do either or both of the following—

    (a) impose conditions on the registration of the person concerned;

    (b) vary or remove any condition previously imposed on the registration."

The Burden and Standard of Proof

17. The Respondent bears the burden of proving any breaches alleged, including the core allegation that the Appellant is unsuitable. The standard of proof is the balance of probabilities.

18. However, when a party makes a specific allegation, the general rule is that he/she must prove that which is alleged. In so far as the Appellant has alleged acts of racial discrimination the burden is on her to prove the allegation on the balance of probabilities.

19. The persuasive burden regarding necessity, justification and proportionality rests on the Respondent.

The Hearing

20. We had received a large indexed and paginated bundle which included the witness statements which we had read in advance. We had also received and read the parties' skeleton arguments. The Scott Schedule (SS) sets out the broad contentions made and the Appellant's response on an historic and more recent basis. Essentially the broad matters on which the Respondent relies in the SS are denied. The Appellant's case in the SS is that she has responded appropriately to improve her provision, and she is, in any event, suitable to be registered as a child-minder.

Additional Evidence

21. Both parties made separate applications to rely on further evidence. Neither party opposed the application of the other side. We agreed that it was in the interests of the overriding objective that we should receive the additional evidence referred to in the applications of each party. These were then paginated and added to the revised index and bundle.

Outline of the Registration and Compliance History

21. We decided that it was appropriate to avoid using the family names of childcare assistants and so we use first names where necessary. The history includes:

21.1 The childminding registration at 5 Harberson Road, Stratford

This setting was inspected on 16 December 2013 by an Early Years Regulatory Inspector (EYRI). The Appellant was found to be in breach of the requirements of both the early years register and the compulsory part of the childcare register. The inspection outcome was "requires improvement" regarding the early years provision, and "not met" in respect of the later years provision.

21.2 Following the inspection, the Appellant was served with a notice to improve procedures for the recording of accidents by ensuring that a record was kept of the first aid treatment given to children, and to maintain an accurate daily record of the children's hours of attendance. A further action raised was to develop the range of toys and resources.

21.3 On 7 April 2014 Mrs Crowley, EYRI, carried out an unannounced visit at 5 Harberson Road and the following concerns were identified.

i. The attendance register had not been completed. She considered that the Appellant had attempted to provide misleading information regarding who the children were and how they had arrived at the setting.

ii. The number of children under 5 exceeded the ratio as there were 10 children under the age of 5 years and only 3 adults to look after them.

iii. The safeguarding policy was found to be incorrect. The Appellant's safeguarding knowledge and understanding was not sufficient.

iv. Behaviour management was ineffective, and strategies used did not support children's learning or understanding.

v. Staffing did not meet the needs of children.

vi. Activities were poorly organised and children had limited access to play equipment and creative resources.

21.4 Ofsted took enforcement action and sent the Appellant a Welfare Requirements Notice (WRN) regarding attendance registers, ratios and safeguarding. Further actions were set out in a notice to improve regarding behaviour management and staffing arrangements.

21.5 At a further inspection on 11 June 2014, Mrs Crowley considered that the Appellant was failing to keep an accurate daily record of attendance of looked after children and also assistants, and that children were not able to access resources and equipment needed for their development. The inspection outcome was "requires improvement" regarding the early years provision and "not met" in respect of the later years provision under the compulsory part of the Childcare register. As a result of the inspection the Appellant was served with a notice to improve (NTI) requiring her to maintain an accurate record of the attendance of children and assistants so as to demonstrate that ratios were being met. A further action was set to improve access to toys and resources for children.

21.6 On 11 June 2015, Mrs Davies, EYRI, carried out an unannounced visit at Harberson Road to investigate concerns that had been received about the Appellant's provision. During the visit it was identified that there was no hot water in parts of the setting which the Appellant explained was due to a flood (from the flat above) and the plumber had had to shut down part of the hot water supply. According to the record made by the Inspector, the Appellant

said that this had been the case since April 2015. Following the visit the Appellant was issued with a notice to take action regarding the lack of hot water to ensure that the premises were suitable for childminding.

21.7 On 1 April 2016 the Appellant moved to 125 Verney Road, Dagenham (Verney Road). On 11 May 2016 Mrs Sheryl Shaw, the Local Authority (LA) Early Years Development Officer for the London Borough of Barking and Dagenham made a pre-arranged "welcome visit". She was concerned by what she saw. The Appellant appeared to be over-minding and not in ratio. The Appellant was unable to produce attendance registers since 1 May 2016; and did not appear to be living at the childminding address.

21.8 On 18 May 2016 an unannounced visit by Mrs Crowley to Verney Road was ineffective. When telephoned the Appellant explained that she was out of the country attending the funeral of her father. On 29 June 2016 Mrs Crowley made an unannounced visit to Verney Road. An assistant, Sagal, was present. Mrs Crowley noted that the Appellant would interrupt so as to provide answers to questions she asked of Sagal. Generally, the Appellant cooperated and was calm throughout. The ratios were met. The records were available to view. No breaches were identified.

21.9 On 6 July 2016 Mrs Crowley made an unannounced visit to Verney Road. She identified breaches of requirements as follows:

i. The Appellant was not present and the assistant, Sagal, was in sole charge of 5 children under the age of 5 years

ii. Sagal: did not have a first-aid certificate and had not completed first-aid training; was unsure of the ages of the children in her care; did not have access to children's records and emergency contact details; was unaware of the safeguarding procedure and had not even heard of it; was observed during the visit to repeatedly leave children unsupervised.

iii. There appeared to be insufficient toys and resources for children to access.

iv. The attendance register did not record the attendance of children accurately.

v. Mrs Crowley found another adult female alone (Devine) in the outside annex who stated that she was the cleaner and she worked for the Appellant to clean the house including the nursery, but whose suitability had not been checked.

21.10 On 7 July 2016 Mrs Crowley attended a case review with a Senior Officer, Mr Jeffs. Ofsted process requires that a decision to suspend is made by a Senior Officer. It was decided that the risk of harm could be immediately reduced by discussion with the Appellant and that, therefore, the threshold for suspension was not met. The result was that the Appellant was served with a further WRN regarding: effective systems for ensuring the suitability of adults; staffing arrangements; first-aid training for assistants left in sole charge; maintaining records; safeguarding; and attendance registers.

21.11 On 4 May 2017 the Appellant was registered with Ofsted as a nursery provider, Canaanland Day Nursery, at 14 Church Street, Stratford.

21.12 On 15 May 2017 Ofsted received safeguarding concerns regarding the Verney Road childminding setting from a former employee. The identity of the former employee is common ground: Pravjot. She alleged that the Appellant had: shaken a 9 month-old crying baby; had shouted at minded children telling them to shut their mouths; had left assistants to mind 8-9 children on their own in breach of ratios; had left children unsupervised in a car for 20 minutes. Concerns about dirty bedding and hygiene were also raised.

21.13 In response to these concerns on 16 May 2017 Mrs Parmar, EYRI, carried out an unannounced priority regulatory visit at Verney Road during which the following breaches were identified:

i. The Appellant had left the assistant to care for children for more than two hours.

ii. The assistant did not have access to children's records and emergency contact details.

iii. The assistant did not have an adequate understanding of safeguarding or the reporting procedures to follow if an allegation was made against another assistant or adult.

iv. The Appellant did not appear to be living at the childminding address and was thus operating beyond the requirements of registration to provide childcare on lived-in domestic premises.

v. The pink visitors signing-in book and printed log sheets for recording children's daily attendance did not tally.

21.14 As a result of the alleged breaches identified by Ofsted during the visit on 16 May 2017, and the concerns that had led to the visit, the Appellant's childminding registration at 125 Verney Road and the nursery registration at 14 Church Street (as an associated setting) were suspended.

21.15 On 1 June 2017 the Appellant lodged an appeal against the suspension of her childminding registration at 125 Verney Road. On 8 June 2017 she withdrew the appeal.

21.16 On 4 August 2017 the Appellant was interviewed by Mrs Parmar and Mrs Crowley.

21.17 On 14 August 2017 the Appellant resigned the Verney Road childminding registration.

21.18 On 1 September 2017, a review of the Appellant's nursery registration at 14 Church Street(Canaanland) indicated that she had traded as a limited company, SUJ Day Care Limited, when in fact the nursery registration had been granted to her personally as a sole trader. This meant that she had been engaged in providing unregistered care, which is an offence. Additionally, she did not have vetting and recruitment documentation available for assistants

21.19 On 3 November 2017 the Appellant resigned the Church Street/Canaanland nursery registration.

21.20 <u>Lords Day Nursery Ltd</u>

In early May 2019, Ofsted received parental concerns in relation to Lords Day Nursery Limited (LDN), operating at 10 Church Street. The concerns included that: the former registered provider of a nursery at 14 Church Street(i.e. the Appellant) was overseeing this setting without registration; the Appellant had hit a child; had transported children from school to the setting in her own car without appropriate car seats; had left children on their own in the car outside school; had allowed a 10 year-old child to collect their 14 month old sibling from the setting alone and had threatened the family making complaints not to speak to Ofsted.

21.21 Mrs O' Callaghan, EYRI, was assigned to follow up the issues raised. Amongst other matters a Companies House check showed that a Mr Jeffrey Ejenu Edahs was one of the Directors listed. On 10 May 2019. Mrs O'Callaghan visited the LDN setting. The evidence she gathered during her visit suggested to her that the Appellant had considerable leadership and management oversight at the setting and without registration. As a result of these and other concerns the setting was suspended on 13 May 2019.

21.22 On 29 May 2019, Ofsted received an email from Mr Edahs stating, amongst other matters, that the Appellant had been sacked and that he would not re-employ her in the future.

21.23 On 5 June 2019 Mr Edahs appealed the suspension of the LDN Ltd. However, the suspension had already been lifted and the suspension resigned at the request of the NI, Ms McDonald.

The Childminding Registration at 58 Mortlake Road, Ilford

22.1 As set out above, on 17 September 2020 the Appellant was registered via an online process by Ofsted to provide childminding at this address.

22.2 On 13 July 2021 the Appellant called Ofsted to enquire about the process of registering on the Early Years Register. We find that it was only because of this inquiry that it was identified that significant information had not been considered as part of the paper-based decision in September 2020 to register the Appellant as a childminder.

22.3 On 15 July 2021 Mrs O'Callaghan carried out an unannounced inspection of the childminding registration at Mortlake Road. Her observations and findings included:

i. A lack of available resources for the children. The Appellant said that she had equipment in the cellar but these were not available to the children as she did not want to 'mess up" her house.

ii. During a tour of the garden Mrs O'Callaghan observed that the fencing to the left-hand side was low with a gap in the fence which was big enough for a child to fit through.

iii. At the top of the garden there was no fencing at all and there were deep holes in the neighbour's garden which children could potentially fall into and get hurt. When questioned about her risk assessments to keep children safe, the Appellant's response was that the neighbours were building a shed and that the matter was out of her hands, thus relinquishing any responsibility for the management of those risks.

iv. The Appellant did not accompany the children into the garden in order to supervise them whilst they played. Mrs O'Callaghan recorded that the Appellant said that she could observe the children on a camera in the dining room.

22.4 The outcome of the inspection on 15 July 2021 was 'not met' and two actions were raised to address the lack of sufficient equipment/resources for children and the significant risks presented to children in the garden. Ofsted's case is that although the Appellant had since addressed the safety breaches in the garden following the inspection, she minimised the impact of the breach in her action response and had said that the inspector had been "overly fussy".

22.5 On 28 September 2021 the Appellant was interviewed by Mrs O'Callaghan to discuss the historical and current concerns in relation to her registrations,

and also in the context that the Appellant now wanted to register Anointing Grace Day Nursery School Ltd at 14 Church Street. A record of interview was made by Catherine Green. Mrs O'Callaghan considered that:

i. It did not appear that the Appellant had reflected or understood the seriousness of the breaches in her compliance history.

ii. The Appellant was of the view that inspections carried out in 2013 and 2014 were inaccurate and that she should have received 'good' outcomes and not 'requires improvement'.

iii. Other regulatory visits during her previous childminding registration were also discussed. The Appellant disputed all actions that had been raised during these visits apart from one raised in June 2015 relating to the hot water. However, she disputed the period during which there was no hot water.

iv. In general, the Appellant placed the blame for failures on others including her staff, inspectors, the local authority advisor and/or parents.

v. She had launched complaints against Ofsted inspectors and local authority advisors when they had observed that she had not been meeting the requirements.

22.6 On 21 October 2021 Ofsted considered the Appellant's suitability to remain registered and decided to take the necessary legal steps towards cancellation of her current childminding registration. The Notice of Intention to cancel registration was issued on 4 November 2021.

22.7 The Appellant, through her solicitors, objected to the Notice of Intention to cancel registration. A face to face objection hearing was initially requested but was held on the papers at the Appellant's request. Her written representations included that: Ofsted had not had due regard to the steps taken to rectify current concerns; these concerns were not serious enough to warrant cancellation; Ofsted rely on historical concerns which had been addressed; it is unfair of Ofsted to conclude that the Appellant lacks insight simply because she disagrees with some of Ofsted's previous findings. It is wholly unreasonable for Ofsted to rely on historic issues, particularly given that Ofsted had deemed the Appellant suitable to be registered in 2020. So far as the interview on 28 September 2021 is concerned, the Appellant asserted that the inspectors interpreted her demeanour as defensive when this is, in fact, the result of cultural differences. As a woman of African heritage she has, throughout her life, experienced people perceiving her demeanour to be offensive or aggressive. This is due to the fact that she gesticulates, and may not express herself as clearly and effectively as the inspectors might expect.

The inspectors should understand and appreciate cultural differences that impact on communication, and how a certain individual may be perceived.

22.8 The Respondent issued the notice of decision on 17 December 2021.

22.9 On 5 January 2022, the Appellant wrote to Ofsted with a request to resign her childminding registration at 58 Mortlake Road. The Appellant was informed that the resignation could not be accepted as it post-dated the Notice of decision to cancel her registration - see section 70(4) of the Childcare Act 2006.

22.10 On 9 February 2022 Mrs O'Callaghan inspected the setting.

22.11 The Appellant was visited by a LA Development Officer on 1 March 2022.

22.12 On 11 May 2022 the Appellant withdrew her application regarding the proposed registration of "Anointing Grace Day Nursery" at 10 Church Street. In acknowledging and accepting the withdrawal request, Mrs O'Callaghan said in an email:

"…it is important to share with you that Ofsted remain concerned about your suitability. We will record our concerns and may consider them further if you apply to register in the future."

22.13 On 20 May 2022 Mrs O'Callaghan received a Whatsapp message from the Appellant who had last communicated with her in August 2021. The message referred to *"all my actions completed since 25 August 2021"* and a further message (repeated three times) that *"What God can not do, does not exist."*

22.14 On 24 May 2022 the Appellant sent an email to Ofsted's generic address as follows:

" Dear Siobhan,

… You know very well that I am suitable as a childcare provider. You and Julia Crawley (sic) have vowed to render me jobless due to my skin colour. I have done nothing new. You have decided to bring the past FALSE allegations against me to boost your case against me.

I am not mental, I may be black but I am a human being. You have treated me like an animal and a criminal. Your treatment of me is very cruel.

I leave everything in the hands of GOD who fights for the oppressed and the weak. GOD will surely fight the battle with me

What GOD can not do, does not exist."

The Oral Evidence

23. We heard oral evidence in the following order so as to accommodate the need of witnesses on both sides. We agreed to interpose the evidence of Ms FB whilst Appellant was still giving evidence.

For the Respondent:

- Mrs Julia Crowley, EYRI
- Mrs Christine Davies, EYRI,
- Mrs Sheryl Shaw, Development Officer for the London Borough of Redbridge (Redbridge),
- Mrs Lorraine Giles, the Local Authority Designated Officer (LADO) for the London Borough of Barking and Dagenham
- Mrs Seema Parmar, EYRI,
- Mrs Siobhan O'Callaghan: EYRI.
- Mrs Pauline Nazarkardeh: EYRI, Senior Officer and the decision maker. She gave evidence via video link because of Covid 19.

For the Appellant:

- Ms JRB, whose child, A, had attended various settings registered by the Appellant for many years and who is currently minded by the Appellant.
- Mrs Samira Ofikwu.
- Ms FB, whose children, D and L, have attended various settings registered by the Appellant since infancy and who are currently minded by the Appellant. L is the child that the Appellant is alleged to have shaken/handled inappropriately at the Verney Road setting when she was about 9 months old.
- Ms Samira Ofikwu (her evidence continued).

The statements of witnesses who gave oral evidence are a matter of record and we directed that these stand as their main evidence in chief. We will not set out all the further oral evidence or the submissions made. When making our findings but we will focus on to the main evidence relevant to the key issues in active dispute, and submissions as appropriate.

Our Consideration

24. It is common ground that we are required to determine the matter de novo and to make our own decision on the evidence as at today's date. This includes consideration of new information or material that was not available at the date of decision which is relevant to the decision made. It is open to any Appellant in any given case to rely on evidence to show that the facts were not as alleged and/or to dispute alleged breaches and/or to contend that opinions or views reached were wrong and/or mistaken and/or unjustified and/or that the issues have since been addressed. It is also open to any Appellant to show that, whatever the past, there has been a change since the decision made such that the decision to cancel is no longer in accordance with the law and/or is not necessary or proportionate.

25. The redetermination in this appeal includes consideration of all of the evidence provided by both sides in this appeal, as well as the oral evidence which has now been subjected to cross-examination over a number of days. We have considered all of the evidence and submissions before us as a whole. We will not set out all the oral evidence but will refer to parts of it and submissions made when giving our reasons. If we do not refer to any particular aspect of the written or oral evidence and/or submissions it should not be assumed that we have not taken this into account.

The Parties' Respective Positions

26. In broad summary Ofsted's concerns in relation to the Appellant's suitability, and hence the reason for cancellation of her current registration, fall into three broad categories:

    A. Concerns about the Appellant's suitability to work with children arising from allegations made against her. These relate largely to concerns about the nature of the Appellant's behaviour towards staff, Ofsted inspectors, and/or in the presence/vicinity of children. This has been variously described as emotional, loud, erratic, aggressive, threatening. It is also said to involve shouting at children and telling them to shut their mouths.

    B. Persistent repeated breaches of the statutory requirements of registration.

    C. Significant concerns about the Appellant's honesty and integrity, and her attitude to the breaches of the welfare requirements.
    In summary, the Respondent's case is that the Appellant has not been honest, transparent and open with the regulator or other agencies. It relies on a large number of examples in this regard and contends that: the Appellant is combative; her responses to factual issues have been inconsistent and unreliable; she seeks to blame others; she is unable to accept responsibility; she is unable to cooperate with the regulator. She has made serious and baseless allegations against a number of Ofsted inspectors which are then withdrawn.

27. The Appellant's position in her first witness statement dated 30 March 2022 was that she had reflected on the matters raised regarding different registrations and had addressed concerns, even when she felt they were not justified. In her second witness statement dated 21st April 2022 she more actively disputed some of the findings and opinions of Ofsted inspectors and/or LA officers, and in some respects, put forward a positive challenge. She said at para 66: *"when I know that Ofsted have been inaccurate or misunderstood me I will not just accept defeat and own up to things I have not done. Where I have made mistakes I own up to them and take full responsibility. I feel like Ofsted have already made up their mind about me and this is why I want to dispute everything I do not agree with".*

28. The Appellant's overall position is that: cancellation is not justified and/or is unfair and/or disproportionate; the historic matters had been addressed by her to Ofsted's satisfaction. Mr Gilmour submitted that the Appellant was, and remains, extremely upset about the allegation that she shook baby L in 2017 and this is the background to the evident lack of trust between Ofsted and the Appellant. Her focus is now on being a childminder and she only minds a small number of children. She had swiftly addressed the issues of concern arising from the 2021 inspection by the erection of the fence. She disputes Mrs O'Callaghan's account about the availability/accessibility of resources. The resources visible at the first visit were age appropriate and available. She has since added to the resources. She has been honest in all her dealings with Ofsted and other agencies. Her suitability is shown by the evidence of Ms JRB and Ms FB who have confidence in her and who want to be able to continue to rely on her services. She is ready, willing and able to work with Ofsted. She only wishes to work as a childminder for a small number of children and will comply with any conditions the panel may consider appropriate such as a restriction on numbers of children. She provides a service to children with whom she has established strong and loving relationships over many years, and whose mothers completely trust her to care for their children. It is open to the Respondent to carry out monitoring visits to satisfy itself as to compliance.

Our Findings

29. We find that the basic history of registration and the enforcement action taken by the Respondent is as set out in paragraphs 21 and 22 above. Whilst the record of actions taken is not disputed, in reality the Appellant does not agree that any of the actions taken by Ofsted were justified. We will not deal with every point taken. We consider it appropriate, and proportionate, to focus our findings on the areas of dispute that are key to our consideration.

30. We have considered all of the evidence in the round. In our view the issues regarding overarching suitability and the alleged breaches of welfare requirements are inextricably intertwined.

31. It is important to emphasise that in the general scheme of regulation the fact that, at any given point in time, a provision was in breach of the requirements which resulted in regulatory action such as a WRN or a NTI, is but one factor. Breaches and related enforcement taken may often be a reflection of "a moment in time" and may well be effectively remedied and/or otherwise addressed to the satisfaction of the regulator and/or the tribunal. The overall aim of regulation is to ensure that the welfare requirements are being/will be met and that the provider is suitable. However, a history of any recurring breaches is a matter of legitimate concern when considering the future. Past breaches and the responses to enforcement action (i.e. WRNs, NTI sand/or suspension) are capable of illuminating the extent to which the provider has the willingness and/or capacity to embed and sustain improvement.

32. A key requirement that underpins the statutory framework is that the provider is "suitable". The concept of suitability embraces an evaluation of matters such as

honesty, integrity, reliability, openness, transparency, insight, as well as attitude to the regulator and other agencies. It also embraces the issue of trust and confidence.

33. By way of overview the Appellant, who gave evidence over the course of about five hours (over 2 days), repeatedly tended to fail to answer the question posed. Her very lengthy responses tended to go off at tangents. We recognised that this could be due to any number of reasons, and not least the stress of giving evidence. The judge had suggested to the Appellant at the start of her evidence, and had cause to remind her on a number of occasions, that she try and focus on the question asked and do her best to answer that question. The judge explained that if there was any area where further explanation or clarification was needed her counsel had the right to re-examine. The Appellant said that she understood this. The overall impression we formed was that the Appellant was determined to answer at length and in her own way. We decided that the fairest course was to recognise and accommodate the Appellant's apparent difficulty in answering the immediate question. We therefore afforded her very ample time and opportunity to explain her perspective in full. We ensured that suitable breaks were taken throughout.

34. We should also record that during her evidence the Appellant made repeated reference to having documents which she could provide to support her case. (On the second day that she gave evidence she said that she documents with her in her suitcase). The judge reminded the Appellant on a number of occasions that the case had been carefully case managed so that the parties had been required to produce the evidence on which they wanted to rely in accordance with directions. If, at the end of her evidence, her counsel wanted to make an application to seek to adduce new evidence we would hear and rule on that application. No application was made.

The visits and inspections by Mrs Crowley

35. In her statement dated 22 April 2022 Mrs Crowley described her involvement with the Appellant. On 27 March 2014 she conducted an unannounced visit to Harberson Road because of concerns which had been received. The Appellant was not at home. She left a message on the Appellant's mobile asking that she contact her. She later contacted the Appellant by phone who said that she had been at West Ham park with the children. When Mrs Crowley said this was a long time as it had been raining all day the Appellant said she was at the library and not at the park. The Appellant provided details of 8 children but said that there were 9 with her. Mrs Crowley thought that the Appellant sounded confused and unsure of what she was saying.

36. On 7 April 2014 Mrs Crowley conducted an unannounced visit at Harberson Road where the Appellant was present with 2 assistants and 10 children. Mrs Crowley spoke to her observations at the visit. She said that there was no intervention when the children were misbehaving and presenting challenging behaviour - such as shouting at the assistants and pushing each other. The assistants looked for guidance to Appellant who was dictatorial and intimidating and did not give the

assistants reasons for doing things. She considered it was not a 'held' environment where children would be safe. She knew that 8 children were registered in attendance but there were 10 children present. When asked about the Attendance Register (AR) the Appellant seemed to blame the assistant and then blamed parents. Mrs Crowley felt that it was a very confused environment and atmosphere, with a lack of clarity, and a chaotic feel. The assistants appeared intimidated by the Appellant and unsure of their responsibilities. Mrs Crowley had to ask the Appellant to stop talking to an assistant in such an inappropriate way, especially in front of the other assistant and the children. The Appellant then apologised to the assistant and the outburst ended.

37. Mrs Crowley stated that when she reminded the Appellant that the AR had been a previous action in December 2013, the Appellant reacted with an outburst of disproportionate emotion. She threw her arms up in the air and started to cry loudly, but without tears. She began to beg Mrs Crowley not to do anything. Mrs Crowley asked her to calm herself. As quickly as the display of distress had emerged it had vanished and the Appellant then listened. The Appellant said that the issue with the register was a one-off: the AR was always accurate and up to date.

38. Mrs Crowley was asked about her statement in which she had said that the Appellant (on 7 April 2014) had begged her not to do anything. She said that the Appellant was very demonstrative. She talked about God and religious beliefs. She was concerned by the way the Appellant was behaving towards her.

39. Mrs Crowley said that her overriding impression was the conduct of the Appellant when she asked about the AR. Her reaction was very physical and dramatic. Mrs Crowley thought there was a complete disregard for what the children were witnessing. It was a trauma for Mrs Crowley but it did not seem to affect the children so it looked as though it was common place. She considered this to be a worry in itself. Mrs Crowley said that she asked the Appellant to calm herself and the outburst had dispersed as quickly as it occurred. This made her think it was a strategy to make her change what she wanted to say. She had been an inspector for 5 years at that time and had never seen such a demonstration before or since.

40. Mrs Crowley said that on 11 April 2014 she received a phone call from the Appellant who disputed the actions raised by her and gave alternative answers, different from those given on 7 April. Mrs Crowley said she tried to calm the Appellant and again explained the process. In the event the Appellant said that she accepted the actions and thanked Mrs Crowley.

41. On 16 April 2014 the Appellant telephoned Mrs Crowley to apologise for shouting and getting angry on the phone on 11 April 2014. Her aunt had died and this was why she had behaved in a volatile way. The Appellant told her that she believed Mrs Crowley was a good Ofsted inspector and a nice lady.

42. Mrs Crowley was thereafter involved in monitoring compliance with the WRNs. She decided on 28 May 2014 that the actions she had set had been met.

43. Mrs Crowley's next involvement began after concerns were raised by Mrs Shaw in May 2016. At her unannounced visit on 6 July 2016 Mrs Crowley found that an assistant, Sagal, had been left with 5 young children. Sagal had no idea of their names or their ages. There was no engagement between Sagal and the children. There was nothing for the children to do apart from colouring. One child woke from a nap and needed comforting, but Sagal just looked around. One child had a dirty nappy and Mrs Crowley had to prompt Sagal that something needed to be done.

44. Mrs Crowley said that her concerns were not just that the Appellant had missed the "2 hour window" but that she had left 5 children with Sagal who was unable to look after and meet the children's needs.

45. The main challenge to Mrs Crowley's evidence was that she had exaggerated her evidence and that her views were infected by the Appellant's history.

46. We accept that Mrs Crowley made contemporaneous notes during her visits which she completed when the events were still fresh in her mind. We accept her factual account and also accept that the judgements and views she reached were objective and evidence-based.

47. Mrs Crowley expressed the firm view regarding her first visit that the children witnessing/being exposed to emotional and erratic behaviour "would" be emotionally harmed/traumatised. The criticism made is that the way Mrs Crowley expressed this in oral evidence was in contrast to her written statement where she had said that children "might" be emotionally harmed. In our view the difference in the expression of her concern does not materially undermine the credibility or reliability of Mrs Crowley or the overall impact of her evidence as to what she saw and experienced. We find that Mrs Crowley was a credible witness.

Christine Davies' visit on 11 June 2015

48. Mrs Davies visited on 11 June 2015 because of a complaint received by Ofsted regarding a number of matters. She found no evidence to substantiate the reported concerns. Indeed, she found positive evidence in a number of respects. It is, however, common ground that she issued a WRN regarding the absence of running hot water.

49. It is common ground that the Appellant said that this absence of hot water was due to a flood from the upstairs flat and this was the financial responsibility of the owner of that flat. When Ofsted issued the WRN the Appellant immediately secured the appropriate plumbing service at her own expense.

50. The only factual issue in dispute is for how long the lack of running hot water had been going on? Ms Davies recorded in her notes, which we find were made contemporaneously, that the Appellant said that the flood happened in April 2015. In her witness statement dated 22 April 2022 the Appellant said at [20] that there "was a period of one week whereby some water pipes had been switched off". The Appellant said that she had been advised to contact the new landlord as the building had been sold by the Council and she had made every effort to contact the new landlord. She has not produced documentary evidence of emails or

communication with the local authority and/or the owner of the upstairs flat and/or the freeholder at the time the incident occurred or after. (We noted that in the interview on 28 September 2021 she said she was a leaseholder at 14 Church Street.)

51. The only documentary evidence provided by the Appellant regarding the date that this problem first arose is a letter from the Appellant dated 29 May 2015 said to have been provided to parents. It was produced as additional evidence at the start of the hearing. We are informed, and we accept, that the Appellant provided this letter to her solicitors on 22 April 2022. If accurate, it tends to suggest that the water issue had arisen on or just before 29 May 2015 i.e. some 17 days or so before Mrs Davies' visit. The letter is produced marked "file copy". There is no evidence to show that it was sent by email, and it does not refer to a distribution list. We understood the Appellant's evidence to be that it was handed to parents.

52. Mrs Davies was very clear in her evidence that the Appellant said the water issue had happened in April 2015. In all other respects her findings at the visit were favourable to the Appellant. We recognise that mistakes are always possible. We can see little reason why Ms Davies would have made a mistake when making her contemporaneous record about the only matter that caused her concern during her visit. The Appellant has not provided any independent documentary evidence to support when the water issue first arose. On balance we prefer the evidence of Ms Davies that the Appellant told her on 15 June 2015 that the hot water issue arose in April 2015.

53. We noted that in the interview on 28 September 2021 the Appellant had said that she did not want to spend money on something which was the landlord's responsibility as she was renting. Her position in interview was that parents were aware and they (the setting) had taught the children to wash their hands with warm water from a jug. She maintained that she did not know that this was not good practice before Mrs Davies' visit and that she had then paid a plumber £300 to connect the water.

54. In our view it is startling that the Appellant needed an Ofsted Inspector to tell her that the absence of running hot water was a hygiene and welfare risk in a childcare setting. Even if, as the Appellant contends, the issue arose on or about 29 May 2015, we find that the Appellant did not recognise or prioritise the children's needs until she was required to take action by Ofsted. In our view it should always have been obvious to the Appellant that running hot water was an immediate hygiene priority in the best interests of the children.

Sheryl Shaw's visit on 11 May 2016

55. Mrs Shaw, an LA Development Officer, attended125 Verney Road on 11 May 2016. The Appellant was new to the local authority of LB Barking and Dagenham and Mrs Shaw came on pre-arranged "welcome" visit. Her role is to help and support child minders. At the time of her visit she had 12 years' relevant experience, and now has 18 years' experience. She said that she was surprised when having rung the bell, the door was not answered for about 5 minutes. She could hear a lot of crying and banging of doors. When the Appellant opened the

door she seemed stressed and was sweating. She said she was busy cooking. However, Mrs Shaw saw no evidence of cooking in the kitchen. She saw evidence of spilt milk near the microwave but no evidence that any of the children she saw were drinking milk or using a bottle.

56. On entering the lounge there were three children. Two of the children were looking out of the window and pointing towards the garage/annex. One was asking why ”she” was in the home corner. The Appellant told the children to be quiet.

57. Mrs Shaw’s evidence was that the Appellant tried to usher her upstairs first and was shaking and very cagey. She managed to look at the downstairs first. She asked to look in the garden but was told that there was no need because it was wet.

58. When Mrs Shaw went to the annexe which contains the “home corner” there were no children there. Mrs Shaw found that a door in the annexe that led out to the main road was unlocked. She considered this presented a very big safeguarding risk. The Appellant could not explain why it was unlocked.

59. Whilst the Appellant was getting some paperwork Mrs Shaw asked the older of the two children in the lounge who was in the home corner outside. The child replied: N and her brother C. When Mrs Shaw said they are not there now: where do you think they have gone she replied “I don’t know, they went in there”.

60. Mrs Shaw also said that she was disturbed by the fact she found a young child (22 months old) standing alone in a room upstairs. Mrs Shaw said that the Appellant said to the child something like “oh you didn’t go to sleep then”. Mrs Shaw told us that there was a cot in the room but the child could not have come out of the cot by him/herself. The child was stationary in the middle of the room which, apart from the cot, was empty. He was not saying anything or crying, but just standing there looking sad.

61. The main forensic challenge to Mrs Shaw’s evidence in cross examination was that she had not seen any children being spirited away, but would have seen this had it happened. The photograph of the house shows three separate doors facing th road: one to the annexe (which houses the “home corner”); one to the patio space between the house and the annex; and the other being the front door to the house. We consider that exit via the front door of the annexe, (or even the side door of the annexe and the middle door) could be achieved without this being noticed by a visitor inside the main house.

62. The Appellant told Mrs Shaw that she had had an assistant with her that day, Samantha, who had had to attend the doctor as an emergency because she was bleeding profusely.

63. A “welcome visit” usually lasts about 2 hours but Mrs Shaw left after about 45 minutes because she felt very uncomfortable. Mrs Shaw left the premises but returned on a pretext. In doing so she encountered the assistant returning to the

premises. She says that the assistant appeared well but said “Oh, I am so sick” and smiled at her in a sarcastic way.

64. Mrs Shaw said that she knew that something was not right. She was so concerned by what she has experienced that she rang her manager from her car. She was advised to contact the LADO which she did. She also informed Ofsted of her concerns that day.

65. We found Mrs Shaw to be credible witness. She went to the house in an advisory/support capacity because the Appellant was a new provider in that borough. Her evidence was quiet and considered. She was straightforward and very clear. We do not consider it likely that children would have been pointing to the annexe, or that the elder child would have said that N and C had gone to the home corner unless this had, in fact, occurred. We consider it more likely than not that more children had been present at the setting when Mrs Shaw knocked on the door. We also share Mrs Shaw’s concern that a young child of 22 months was left in the middle of a room upstairs, not in a cot, and alone.

66. In our view it is probable that the setting was operating over ratio, and the Appellant’s attempts to hide this account for the delay in answering the front door and her “panicky” behaviour. We find that the Appellant provided a sheet regarding attendance after she had spent some time in the kitchen. She was unable to produce attendance registers from 1st May. She said that these were elsewhere but we can see no good reason why daily attendance registers, if they existed, would not be kept in the setting.

The “whistle blower” letter

67. An anonymous letter dated 13 May 2016 was sent to Ofsted (received by “NBU” on 25 May 2016) which purported to have been written by a local authority employee. The effect of the letter is that the author had occasion to overhear her colleagues, Mrs Shaw and “Ms Rachel” discussing the Appellant in derogatory, racist, and disparaging terms.

68. We put to one side that the LA had reached the view that the letter was written by Ms Ofikwu. We resolved to reach our own view based on the available evidence.

69. The letter needs to be read as a whole. In our view the main features are the author said that Sheryl Shaw and Ms Rachel were discussing a new childminder who “had recently arrived” in the borough. The author relates that Sheryl Shaw said she will be using photographs she took against Samira as a revenge for her friend who lives in Stratford. The letter continued:

“I am pleading with you that any information provided by Sheryl Shaw and Rachel should be disregarded as the report may be untrue.

Sheryl Shaw said that she was going to report to OFSTED that Samira did not have registers and children’s details on the premises whilst she visited Samira’s home, so that Samira can get into trouble with Ofsted.

Both Sheryl and Rachel laughed and Sheryl Shaw started mimicking Samira's African accent.

This is not the first time that Sheryl Shaw has humiliated a black childminder.

There have been a couple of case from black childminders complaining against Sheryl Shaw."

70. We consider that:

1. The letter is an accusation of racist behaviour by Mrs Shaw and her manager.
2. It is inherently unlikely that Mrs Shaw would have conducted such a conversation with her line manager.
3. Even if such an event had occurred - it is improbable that an LA "whistle-blower" would think to report this to Ofsted rather than to his/her employer. Ofsted has no role to play in the propriety of the conduct of LA employees.
4. We noted that the "whistle blower" was unable to provide the full name of Mrs Shaw's line manager: if he/she was an LA employee this would be known or ascertainable by him/her.
5. The language used in the letter used phrases that are similar to language that has been used by the Appellant. The Appellant used this phrase "I am pleading with you" in her letter to the Tribunal written in support of her appeal against suspension. We recognise that the phrase "I am pleading…" etc. is not unique to the Appellant. In cross examination the Appellant denied that she has ever begged or pleaded with anyone for anything, but we find that these are phrases she has frequently used in the context of asking Ofsted inspectors to "forgive" breaches and not to issue an action. One example, amongst many others, is that she said in interview on 28 September 2021: "I am begging Ofsted to reconsider me I am not bad. I am not mental…"
6. We noted that the "whistleblower" was also able to state that the address of the Appellant was 125 Verney Road. We consider it improbable that such precise information would have been given, or recalled, in the context of an alleged conversation overheard by someone with no knowledge of the visit that had taken place 2 days before. It is too specific.
7. The obvious point is that the only potential beneficiary of this extremely serious slur against Mrs Shaw's character and professionalism (and that of her line manager) was the Appellant.
8. The sequence is illuminated by the record made by Ms Joy Barter, the LA Group Manager in Early Years and Childcare who considered the "Whistle Blowing Complaint about early years officers." (H70). Although we did not hear evidence from Ms Barter her record gathered together in one place the contact made by the Appellant with the LA at that time. We find that:

    a) After the visit, and on 11 May 2016, the Appellant telephoned Mrs Shaw and complained about the way that Mrs Shaw had treated her. Mrs Shaw

explained that she was only doing her job and was concerned about the safety of children in the house. Mrs Shaw told the Appellant that she would be contacting Ofsted.

b) On 11 May 2016 at 17.01 the Appellant called the Family Information Service complaining that Mrs Shaw was "rude" and asking for a new support officer.

c) On 12 May 2016 Ms Barter, received a call on her mobile from the Appellant. She could not return the call until 13 May 2016. When she did so the Appellant was vocal in her complaints and said that Mrs Shaw had "*humiliated*" her.

d) Ms Shaw's line manager Rachel Marie-Onder spoke to the Appellant on the telephone on 13 May 2016. The Appellant complained about Mrs Shaw and again asked for a new support officer.

71. We noted that the author of the whistle blower letter expressly said: "*This is not the first time that Sheryl Shaw has humiliated a black childminder."* On balance we consider it unlikely that the use of the word "humiliated" in both the whistle blower letter and in the verbal complaint made by the Appellant to Mrs Barter is a coincidence.

72. Having considered all the evidence as a whole we find that the letter of 13 May 2016 was written by the Appellant and sent to Ofsted in an effort to discredit Mrs Shaw (and her manager) in a pre-emptive strike to seek to undermine her credibility and professionalism with Ofsted.

73. Mrs Shaw was unaware of the letter until recently. Although very upset by it, her evidence to us was calm, measured and professional. We accept her evidence that she has never had a complaint made against her in her 18 years of service.

Seema Parmar's visit on 16 May 2017

74. We find that the essential facts regarding Mrs Parmar's visit to Verney Road were as summarised at para 21.13 above. In our view the situation found by Mrs Parmar on her unannounced visit was very serious. The Appellant had left children in the care of an assistant who had no access to the children's records and who did not know about safeguarding.

75. When Mrs Parmar asked a parent who her child's key person was, the parent said that it was "Prav" but that she "got a phone call today from the childminder" to say that "Prav" would be at the nursery and not at the childminding setting that day, to cover staff at the nursery. When asked about this the Appellant said that the parent meant her and that "they call me prav, Samira and Sammy". The Appellant maintained in her evidence that "parva" is a term used in her native language for "aunty". Whether or not this is so, we consider the information given by the parent was probably accurately recorded by Mrs Parmar. It is clear from Mrs Parmar's record that the parent had referred to "Prav" as her child's key worker and said that she had been told by the childminder (i.e. the Appellant) that Prav would be

covering at the nursery that day. The Appellant told us that the nursery was not open at this time but this is inconsistent with what she had said to Mrs Parmar on 16 May 2017 which was that baby L and three other children had moved to the new nursery that she had recently opened.

76. There has been a great deal of evidence regarding whether the Appellant in fact lived at 125 Verney Road during the week as she contends. Different inspectors/agencies on different dates doubted that this was the case, essentially because the house did not seem "lived in". We noted also that Ms JRB told us that when she used to collect A at Verney Road, the Appellant would lock up the building and leave at the same time. She said that the Appellant lived in Ilford. Ms FB told us that she visited the Appellant socially at 125 Verney Road sometimes. The Appellant relies on council tax and other bills to seek to substantiate her residence at 125 Verney Road but these documents simply show that she was responsible for paying council tax and bills and do not go to the issue of whether she lived there during the week as she claims. In our view, in the context of the many other issues in this case, it is not necessary to make a finding as to the extent to which the Appellant actually stayed at 125 Verney Road across the period with which we are concerned.

Mrs Giles, the LADO

77. Mrs Giles explained her role as a LADO which is essentially to ensure that when a safeguarding allegation is made, the matter is investigated by the appropriate agencies. Her role is not to investigate but to coordinate the multi-disciplinary team approach. Ultimately, once it is appropriate to do so in the context of any ongoing police investigation she, as the LADO, has to reach a view as whether may be a risk of harm to children. That is not, however, a finding of fact as to what did not or did not happen, but rather it is a risk assessment. We noted that Ms Giles view regarding risk was based on various concerns and not simply the allegations made by Pravjot.

78. It is common ground that the police/the CPS decided that there was insufficient evidence to bring a charge given the criminal standard of proof. It is apparent that another assistant, Sagal, had witnessed the alleged incident and said that L had been inappropriately handled. She would not, however, sign her police statement. There was no injury to L and her mother did not support a prosecution because she did not believe that anything untoward had occurred.

79. Whilst the panel is able to consider hearsay evidence, the nature of the allegation regarding L is such that, in the absence of first-hand evidence from Pravjot and/or Sagal, we do not consider it fair or reasonable to make any finding about what happened that day, even on the balance of probabilities.

Siobhan O'Callaghan's visit to Lords Day Nursery Ltd on 10 May 2019

80. As set out above Mrs O'Callaghan visited Lords Day Nursery Ltd because of parental concerns which included that the Appellant was overseeing that setting without registration. She said she made contemporaneous notes during the inspection. These show that soon after she arrived she spoke to the manager,

Wendy Christian, and explained that the purpose of the visit was to assess whether the provider is meeting the requirements of registration. The manager's immediate response to her arrival was that she needed to call her colleague, Samira. Wendy said that Samira's role was that of curriculum coordinator and she was due in anyway. When Wendy telephoned the Appellant Mrs O'Callaghan heard her response over the phone as "Oh Jesus". When Wendy confirmed that the Appellant was on her way Mrs O'Callaghan asked Wendy to call the provider to say that Ofsted was present.

81. Mrs O'Callaghan asked Wendy to confirm who the provider is and who employed her (i.e. as manager). Wendy said that the provider, Samira Ofikwu employed her, the company is a limited company, and that Jeffrey Edenu is the "other director".

82. When she arrived the Appellant said that the provider was Tanique along with Jeffrey. She said that she had been part of the company but had had to resign because of issues. She took a part time job with the nursery as SENCO and curriculum coordinator. When Mrs O'Callaghan asked her if she is related to Jeffery she seemed uncomfortable, waved her hand and said "but not really".

83. It is apparent from Mrs O'Callaghan's record that she took telephone advice from a senior officer at Ofsted: because the Appellant was working at the setting she did not want to explore the safeguarding allegations as these needed to be shared with the LADO. It was decided that she would explore basic matters and the Appellant's employment.

84. When she arrived Tanique McDonald was asked about her role. She said: she was chosen as the NI because she had early years' knowledge; she supports staff with policies and procedures and had been involved in the parental complaint last week; Jeffery has overall responsibility as the director that owns the nursery; she does not get paid to be NI: she works as manager at Calvary Nursery: she does not work for LDN but will be the person to speak to Ofsted; she met the Appellant, who she had known for seven years through the church; she was approached by Samira and the pastor at about the end of 2017; she put in the application to register.

85. Ms McDonald gave Ms O'Callaghan her personal email address and said she had never used the Lords Day Nursey email address. She said she was going to contact Ofsted and tell them she no longer wants to be the NI as she had too much going on at the moment.

86. Mrs O'Callaghan asked for the vetting, suitability and DBS checks for the Appellant. Wendy said she could not provide these. Ms McDonald said that Jeffery had employed the Appellant. Although it was evident that the interview notes for Wendy's appointment had been signed by Ms McDonald and Jeffery, Ms McDonald said she had not interviewed Wendy. Staff supervision records for 18 April 2019 showed that the Appellant was present at the manager's supervision meetings with staff.

87. The Appellant's evidence before us was that she had resigned the Canaanland nursery because she had been very unwell and was suffering from stress and high blood pressure against the background of the false and hurtful allegations made, and the police investigation. She told us that after she resigned the Canaanland registration she was discussing the sale of the nursery one day when Tanique McDonald happened to walk by and said she was interested in taking over. The Appellant said that she agreed to transfer the nursery to her.

88. The Appellant said that she was initially a director in LDN Ltd but resigned this because Ms McDonald said that she could not be involved because of her Ofsted history. The Appellant's evidence is that she later went to work at the LDN Ltd, initially as a volunteer and then as a paid curriculum coordinator. She only worked part time as a curriculum coordinator for 10 hours a week but helped the manager with section 11 work as needed. She maintained that she did not have contact with the children but only worked in the office. Her explanation for the fact she was rostered to work between 10 am and 6pm every day in the week commencing 15 April 2019 was that she was helping out that week.

89. The Appellant produced a contract of employment shortly before the start of this hearing, signed by Ms McDonald and the Appellant on 11 and 14 December 2018 respectively. The contract states that the Appellant's employment as an curriculum/SEN co-Ordinator was for 10 hours pw and that she could be required to work extra hours as necessary. One oddity is that the first paragraph states "Your employment began on 19 December 2018." This, however, is a small point in context.

90. Based on the Companies House records before us we find that:

    a) On 12 November 2017 an application was made to register Lord's Day Nursery Ltd at Companies House. Ms Tanique McDonald was the proposed (and only company director (K105)). The statement of share capital referred to was 100 ordinary shares. The initial shareholding under Ms McDonald's name was 100 shares. She was put forward as the person with "significant control" of the company.

    b) Lords Day Nursery Ltd was incorporated as a private company limited by shares on 13 November 2017. This was about 10 days after the Appellant actually resigned her Ofsted registration at the Canaanland Nursery at 10 Church Street.

    c) On 13 November 2017 Tanique McDonald had been appointed as an officer of the company (Senior Operational Director). (She resigned that directorship on 19 May 2019 (i.e. shortly after Mrs O'Callaghan's visit).

    d) On 19 July 2018 the officers of the company appointed were Jeffrey Ejenu Edahs (Managing Director and Human Resources and Administration) and the Appellant (Director: Sales and Finance). The Appellant resigned that directorship just 12 days later on 31 July 2018.

e) The Appellant's evidence is that she did so because Ms McDonald told her to do so soon after the nursery began because of her past history with Ofsted. This does not seem to tally because her resignation of that director's post was some 8 or so months after incorporation.

f) The Shareholders' confirmation statement dated 12 November 2018 stated that 30 shares were held by Jeffrey Ejenu Edahs, 68 by the Appellant and 2 by Tanique McDonald. This made the Appellant the majority shareholder.

g) On 18 September 2019 the Appellant was again appointed as a Director. The records at Companies House show that she remained a director thereafter.

h) The striking off application dated 6 December 2019 was signed by the Appellant and Jeffrey Edahs. The company was dissolved on 31 March 2020.

91. The Appellant said in her oral evidence that she had no idea that she was the majority shareholder in the company.

92. To return to the regulatory history, on 27 May 2019 Ofsted had received an email from Jeffery Edahs which stated that he is the Managing Director of LDN Ltd (H441). He explained that he had been abroad and he expressed his shock regarding the suspension notice. He said that the company would like to continue providing childcare services. He acknowledged that Ms McDonald had resigned, and that a new nominated person had also resigned. The email also stated that 14 Church Street had been vacated but that "we are now looking for a new premises to make a fresh application to re-register." His email continued:

"With regard to Samira Ofwiku. We employed her for only…10.. hours per week as a curriculum coordinator to support the manage and staff. Not to work with children directly.

We are ware(sic) of the incident of 2017. This is why we restricted her to the office until the new DBS check is received. I can confirm that all measures and necessary steps were taken into consideration during Samira Ofikwu's employment with Lords day nursery ltd (sic)

The company have sacked Samira Ofikwu and would not re-employ her back to the company in future."

93. We consider it likely that this letter was written as an attempt to distance the running of the setting from the Appellant and to seek to pre-empt future suitability issues on re-registration. Mr Edahs did not refer to the fact that he is the Appellant's son. We find that the Appellant had been evasive with Mrs O'Callaghan when she asked whether she was related to Mr Edahs.

94. On the Appellant's own evidence she and her son hoped to preserve the nursery setting. We noted that the Appellant's son, Mr Edahs, has not provided a statement to explain his role, or his interest in childcare, or why, if the Appellant had been sacked, he allowed her to retained directorship in a company that he wished to re-

register with Ofsted. The letter also does not explain when and why the Appellant was sacked.

95. We place little or no weight upon the employment contract that the Appellant has recently provided because her evidence regarding her overall involvement in the Lords Day Nursery Ltd is not consistent or reliable.

96. We find that following suspension in 2017, rather than fight against the threatened/potential cancellation of her registration as a child minder and/or as a nursery provider on the merits, the Appellant decided to resign her registrations. That, in itself, in unremarkable. She was allowed to do so under law. What happened thereafter is, however, important.

97. Having considered all of the evidence in the round we find that the involvement of Tanique McDonald in making the application to Companies House on 12 November 2017, and the application to Ofsted for registration of the nursery setting for LDN Ltd , was a front or device, the purpose of which was to gain registration so that the Appellant could continue to operate her business. Whatever investment may or may not have been made by her son, we find that the reality was that the LDN setting was always under the effective control of the Appellant. In our view the incorporation of Lords Day Nursery Ltd on 13 November 2017 had not happened overnight but was a purposeful exercise.

Mrs O'Callaghan's inspection at Mortlake Road on 15 July 2021

98. The Respondent's case regarding Mrs O'Callaghan's inspection at Mortlake Road on 15 July 2021 is set out at para 22.3 above. We will make other findings about this inspection in due course but will focus on particular aspects at this stage.

99. We accept that the presence of deep holes in the neighbour's garden (apparently dug as footings) presented a risk to the safety of the children, there being no physical barrier to prevent their access to that space.

100. The Appellant's case is that she was always with the children when they were in the garden, but we accept Mrs O'Callaghan's account that the Appellant told her that she watched the children from inside using a camera. We accept that she had suggested to Mrs O'Callaghan that it was not necessary to go into the garden because of this facility.

101. The Appellant relies on a risk assessment document that she says she provided to Mrs O'Callaghan at the inspection. She says this was amongst a folder of polices and other documents. We understand her evidence to be that part of this document had already been written in at the time of the visit but that the column regarding review was completed later. If the contents of this document are true they would support that the Appellant had recognised on 5 July 2017 that the activity of the neighbour in digging a foundation presented a potential risk, and she had taken action to address such risks.

102. We consider it very unlikely that this document (even in any preliminary stage) was in existence on 5 July 2021. It is very unlikely that Mrs O'Callaghan would

have missed it, even if was only handed to her within a folder. It is also very unlikely that the Appellant would not have drawn the existence of this document to her specific attention on 15 July 2021 had it existed at the time. She knew that the deep holes in the neighbour's garden were a problem for the inspector. We do not accept that the Appellant provided a risk assessment document to Mrs O'Callaghan during her inspection.

103. Mrs O'Callaghan's inspection was subject to the process of "factual accuracy". In this process, whilst taking issue with other matters, the Appellant did not acknowledge the risk presented to children by the holes in the neighbour's garden. We note that the Appellant did not take the opportunity to produce the risk assessment document on which she relies.

104. We do not accept that this document existed in any format at the time of the inspection. We consider that it has been created to seek to address Mrs O'Callaghan's evidence that the Appellant did not recognise that the large holes presented a risk.

Mrs Nazarkedeh

105. Mrs Nazarkedeh said that she had made specific inquiries about the basis on which the 2020 application had been processed and granted on-line. She was a straightforward and credible witness. We accept that the Appellant's child-minding application in September 2020 was allowed and granted without the full history having been accessed and considered. We stress that the Appellant was not responsible for this in any way.

106. Mrs Nazarkardeh was asked in cross examination why, if the Appellant is unsuitable, the Respondent had not suspended the current childminding setting. The argument is that this indicated that Ofsted did not then, and therefore should not now, perceive any risk of harm to children. Mrs Nazarkardeh explained that the threshold test for suspension (by definition an interim measure pending investigation/further consideration) is different to the making of a substantive decision. We accept the logic of her evidence and consider that her view is in accordance with the law.

107. A major part of the Appellant's case is that she only wishes to act as a childminder for the 3 children she currently minds at her home. We noted in passing that on the evidence before us she has minded as many as 5 children at her home in the past. We note that there are references in the evidence to the Appellant minding more children on occasions. A major and repeated issue across the registration history is that concerning Attendance Registers. The Appellant's stated current intention also contrasts with the fact as recently as May 2022 she made it clear that she wanted to achieve nursery registration. It was Mrs O'Callaghan's (in our view measured and legally appropriate) response that resulted in the Appellant's extremely hostile email on 22 May 2022, accusing her, and Mrs Crowley, of saying that she is unsuitable because of her colour, and also of fabricating evidence.

108. We heard evidence from Ms JRB and Ms FB who are mothers of children who have been minded by the Appellant for a considerable time and who have

complete faith in her. We note that Ms JRB is a social worker involved in child protection. On Ms FB's evidence she has relied heavily on the Appellant. The picture conveyed by the Appellant is that she has supported the vulnerability of each mother in ways that have extended beyond childcare. In any event, we can understand why both mothers wish the current arrangements to continue, and why they are loyal to the Appellant. We find that neither mother was/is aware of the basis for the Respondent's concerns regarding the Appellant's honesty and integrity. Both mothers were unaware of the facts regarding the large deep holes in the neighbouring garden, or that steps to prevent access to the neighbour's garden had not been secured by the Appellant until she was required to do so by Ofsted. When asked to look at the photographs it was clear to us that they had had no knowledge of that situation.

109. It was Ms JRB who told us that her daughter A had told her that she played Jenga, Connect 4 and snakes and ladders at the setting. Significantly, none of the photographs provided by the Appellant of resources now available show these games and the Appellant had made no mention of them at any stage. She could have said that Ms JRB was mistaken. In our view her evidence under cross examination showed the Appellant's willingness to make evidence up as she went along. It started when she said that she knew how to play chess and would teach the children how to play. When asked, she could not describe the position of the rook on a chess board. She then said that this was "children's chess" (the implication being that this involves different rules) which she intends to learn with the children. However, the set had been on display when Mrs O'Callaghan first visited on 15 July 2021.

110. We find that the Appellant had no idea what is involved in either Jenga or Connect 4, both of which are distinctive games. Life experience informs us Jenga requires children to build a tower taking turns and then to try and remove bricks without toppling the Jenga tower. Life experience also informs us that Connect 4 is an interactive game with a distinctive frame. The aim is to try and get 4 discs of the same colour in a row and to prevent the other player from so doing. The Appellant's explanation for why she could not describe the game she had purchased is that it was in a drawer that was accessible to the children but they had not used it yet. We did not believe her account. We find that the Appellant latched onto Ms JRB's reference to Jenga and Connect 4 and confabulated an account which was not true. If this has been the only area where the Appellant had confabulated a story it would not trouble us unduly because we recognise that untruths can be told for many reasons.

111. A repeated theme over the history is that the Appellant alternates between begging for forgiveness and then making serious allegations if she does not succeed in her goal. One example is that, following the lengthy interview on 28 September 2021 the Appellant sent an email to Mrs O'Callaghan on 8 October 2021 stating;

"Please, please don't war with me. I am sorry if I have offended you in any way. I was just sharing my feelings. Not fighting Ofsted. ….May our Lord Jesus Christ touch your heart for forgiveness. GOD bless you"

and also in a further text: *"I will do anything Ofsted want to keep the children safe under my care. Just give me instructions and actions, I will do it all."*

Months later in May 2022 (and at a time when she had instructed solicitors to conducting her appeal), she wrote the email accusing Mrs O'Callaghan (and Mrs Crowley) of racial discrimination.

112. The Appellant made very serious allegations against Mrs Crowley and Mrs O'Callaghan in her email dated 22 May 2022. When these witnesses gave evidence these allegations were withdrawn as unfounded by counsel and apologies offered on the Appellant's behalf. It was said that the allegations arose from her frustration and should never have been made. When the Appellant was cross-examined she would not agree that she had alleged that Mrs Crowley and Mrs O'Callaghan were racist. It appeared to us that she was not really apologising and/or that she still believed the inspectors' views were motivated by racial discrimination. In the event she said that she had made the apologies in order to "look good" before the panel. We find that the language used in the email was an explicit accusation of racial discrimination.

113. We find as follows:

    1) We do not accept that the views of any of the inspectors, or the reasons for the respondent's decision, have been infected by racial or cultural discrimination, or any inability to recognise/pay attention to cultural differences, or any improper or unprofessional motive.

    2) Ofsted inspectors when investigating complaints made it very clear when they found no evidence to substantiate the concerns they had received. They had recognised improvements when they had occurred and had, at all times, sought to act proportionately.

    3) We find that the evidence of each of the Inspectors, Mrs Shaw, and Mrs Nazarkardeh was clear, cogent, honest and evidence-based. We do not accept that any of these witnesses has been motivated by bias, prejudice, discrimination or any improper or unprofessional motive.

Breach of Welfare Requirements

114. The Respondent has satisfied us that the evidence demonstrates a clear pattern of genuine and recurring concerns in the following areas which we summarise as follows:

    a) Attendance Records

    The Appellant's history includes the need for repeated advice or actions about the need to complete and maintain accurate attendance records (AR/s). The importance of accurate ARs is obvious: they are vital so that head counting is

always accurate and assured when moving from one place to another - and not least in the event of a fire or other emergency.

The other importance of ARs is that they show the children and staff present at any one time. If properly maintained, they show whether a setting is, or is not, operating within permitted ratios. We find that the failure to keep accurate ARs has been a recurring and persistent issue since 2013 and despite the enforcement action taken. We do accept that following Mrs O'Callaghan's action, attendance registers have since been kept in the current registration for three children. However, given the long and repeated history of breaches regarding attendance records, and our views as to the Appellant's lack of integrity, we do not consider that she can be trusted to maintain wholly accurate attendance records and not to exceed ratio/overmind.

b) *Availability/accessibility of resources*

We find that:

i. The availability of appropriate resources for the children has been a repeated concern since 2013. We accept that on occasions improvements have been noted.

ii. The availability and accessibility of age-appropriate resources is important because this supports children in making autonomous choices and so promotes learning and development.

iii. We accept that on 15 July 2021 the Appellant told Mrs O'Callaghan that resources were in the cellar because she did not want her house "messed up". We accept that some improvements have been made since.

iv. The overarching issue is that the improvements repeatedly required by Ofsted over years have not been sustained. In our view it is startling that, despite the fact that the long history requiring improvement in age-appropriate resources and their availability, the Appellant in 2021 relied on Duplo as an age-appropriate resource for children aged 5 to 7 years. We noted that Ms JRB said that she thought that this Duplo was still "purposeful". We agree that the Duplo is capable of being used so as to build a wall etc. by any child of whatever age - but that is not the point. In our view Ms JRB's attempt to suggest that Duplo was age appropriate for children aged 5 and over undermined her reliability/objectivity because it suggested that she was motivated to support the Appellant. Common sense and ordinary experience informs us that the Duplo "available" at the setting was suitable for children who are aged about 1-3 years old. We also consider it very likely that the Duplo (contained in a box retrieved in a box by the Appellant from behind the sofa) were the remnants of an earlier provision.

v. In our view it is startling that the Appellant had to receive advice about age-appropriate Lego from a local authority development officer in March 2022 before she purchased any suitable Lego for 5-7 year olds.

vi. Whilst we accept that the Appellant has produced photographs to show improved provision and, in particular, regarding outside toys, we have

little or no confidence the Appellant will sustain this. We say this because of the repeated history of concern over many years regarding the availability of age-appropriate resources, albeit in different settings. We consider it likely that the Appellant has always had her own firm views about what she considers needs to be available for children.

Honesty and Integrity

115. In our view there are a number of matters of past history that go to the heart of the Appellant's honesty and integrity and, thus, her suitability to remain registered. We focus on the main points. We have found that:

i. The Appellant was the author of the whistle blower letter. This letter was a dishonest and deliberate fabrication written by her and designed to discredit Mrs Shaw. In our view this, in and of itself, is an extremely serious matter that speaks volumes as to the Appellant's unsuitability.

ii. We find that the appointment of Tanique McDonald as the NI for the LDN Ltd was a front to enable the Appellant to operate. The Appellant, when asked by Mrs O'Callaghan, did not acknowledge that Mr Edahs was her son. She was evasive. We find that the arrangements made to regarding the Lords Day Nursery registration were a deliberate front to enable the Appellant to effectively continue to control/manage a nursery without registration in her own name.

In our view these matters alone render the Appellant unsuitable to be registered.

116. Additionally, we consider the Appellant's propensity to discredit the character of anyone who has crossed her is demonstrated in her comments about Pravjot.

a) When cross examined, and just before the midday break, she said Pravjot was *"not a vulnerable young girl…..She had a bad attitude that caused her husband to beat her up. That would be why she had problems with her husband - she had a bad attitude and instructed Ofsted to deal with me and to discipline me."*

b) This evidence was disturbing enough. It was apparent to us that the Appellant had no insight into the impact of what she had said. After the midday adjournment and towards the end of her evidence she said *"I wanted the panel to understand this - she had an attitude. If she was a vulnerable good girl, she and her husband would not have a problem. She would not be fighting with her husband."*

c) We consider that this indicates an extremely poor attitude and understanding regarding equality issues, and a profound lack of insight/awareness. In our view this evidence also illustrates that the Appellant's default position is to seek to devalue anyone who says anything adverse about her, or with whom she does not agree.

d) In our view this resonates with the attacks she has made in relation to Mrs Crowley, Mrs Shaw, Mrs Parmar and Mrs O'Callaghan. We consider that

this aspect of her character goes to the core of her attitude and is deeply concerning.

117. Further, when considering the Appellant's attitude to regulation, we find that the Appellant does not have any real understanding of, or respect for, anyone's perspective other than her own. We consider the Appellant has been given many opportunities to meet and overcome repeated concerns regarding basic welfare requirements but her overall approach is to do what she wants, and when she wants. On occasions when she seemed to agree matters with inspectors, she has then retracted this shortly thereafter, whilst seeking to persuade inspectors not to take enforcement action. She has demonstrated time and time again in her dealings with Ofsted that her approach is to beg/plead for forgiveness and/or to be combative. We find that the Appellant's pattern of behaviour is to seek to discredit the motivation and integrity of those that she characterises as "against" her.

118. Mr Gilmour submitted that the Appellant's evidence should be viewed through the prism of the hurt caused by the serious allegation made regarding Baby L in 2017, and that the breakdown on trust between the Appellant and the regulator should be viewed in that context. We do not doubt that she was very upset by that allegation. In our view the evidence regarding the Appellant's responses to the ordinary demands of regulation shows a similar pattern of behaviour which preceded the allegation made regarding Baby L in 2017.

119. We make our assessment as at today. In our view it has been demonstrated that the Appellant is not someone who, even now, can be trusted to give a straightforward or reliable or truthful answer. We find that the evidence as a whole shows that she is unable or unwilling to accept meaningful responsibility. We consider that the history of enforcement action overall shows that the Appellant has a combative, manipulative, and hostile approach to regulation. We consider that her attitude is very deeply engrained. This renders her unsuitable.

120. The Respondent has satisfied us that the discretionary decision to cancel registration was, and is, very clearly justified under section 68 of the Childcare Act because "the prescribed requirements for registration which apply in relation to the person's registration under that Chapter have ceased to be satisfied" and that the registered person "has failed to comply with a requirement imposed on him by regulations under that Chapter." We find that, despite being given many opportunities, the Appellant has repeatedly breached requirements. We consider that it was been amply demonstrated that she is not able to sustain improvement and that this is mainly due to her attitude to regulation.

121. The Appellant relies upon the fact that the mothers using her services are happy with her care of their children. We accept that Ms JRB and Ms FB trust the Appellant and want to continue with her services. It was clear to us that the door to door service she provides (i.e. collection from home, driving the children to and from school, and driving them home) is aptly described as a "Rolls Royce" service, in terms of convenience to hard-working and hard-pressed mothers. However, the core issue of suitability must be judged on an objective basis. The public, families and children in general are entitled to expect that the regulator will ensure that

children receive care in a setting that is run by a provider who is suitable. They are entitled to expect that Ofsted will take steps to prevent the continuation of registration if the provider is not suitable.

Proportionality: our evaluation

122. We find that:

1) The Appellant's personal interests are such as to merit the protection of the ECHR by reference to Article 1 of Protocol 1 and Article 8.

2) The Respondent has satisfied us that that the decision taken was in accordance with the law.

3) We are also satisfied that the decision was objectively justified and necessary in order to protect the public interest in the protection of the best interests, which includes the safety, wellbeing, and needs of children accessing general childcare provision, as well as the maintenance and promotion of public confidence in the system of regulation.

4) In reaching our decision on the issue of proportionality we recognise that the impact of this decision could not be more serious. Cancellation will bring an immediate end to the Appellant's registration and with very profound impact upon her long career and ambitions. It will bring to an end her ability to earn her living by providing childcare services. The decision will also (or should have) a profound impact upon her ability to work in any post that requires a DBS certificate, such as teaching or allied posts, or health care or related posts. The reasons for cancellation may well also have broader reputational implications for the Appellant affecting her standing in the community and her employability in general. The decision will also adversely affect the children and families who rely on the Appellant's services.

5) We attach very significant weight to the public interest in children being looked after in a way that is compliant with the regulations i.e. that the provider is/remains suitable and is able to deliver care in accordance with the requirements of the Childcare (General Childcare Register) Regulations 2008. Children are entitled to care which meets the required standards. It is in the public interest that care provided under registration meets the required standards and regulations, and that action is taken so that unsuitable providers do remain registered.

123. Mr Gilmour conceded that if we were to find that the Appellant is unsuitable conditions could not be imposed. He was right to make that concession: section 74 precludes the imposition of conditions in the context of a finding of unsuitability. For the avoidance of any doubt, we should say that for the reasons we have given, we do not accept that the Appellant has any capacity, or could be trusted, to sustain any change/improvement under conditions. She is unsuitable to remain registered.

124. We have balanced the impact of the decision upon the interests of the Appellant against the public interest. We consider that the facets of the public interest engaged far outweigh the interests of the Appellant and all those affected, including Ms JRB and Ms FB and the children currently minded by the Appellant. In our view the decision to cancel registration was (and remains) reasonable, necessary and proportionate.

Decision

The decision to cancel registration on the grounds of suitability is confirmed.

The appeal is dismissed.

Tribunal Judge Goodrich

First-tier Tribunal (Health, Education and Social Care)

Date Issued: 28 October 2022