First-tier Tribunal Care Standards

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

2024-01218.EY
NCN: [2025] UKFTT 00825 (HESC)

Hearing held at the Royal Courts of Justice
The Strand
on 23rd, 24th and 25th June 2025.

BEFORE
District Tribunal Judge Mr L Ford
Specialist Member Mr M E Green
Specialist Member Ms M R Smith

BETWEEN:

IN

Appellant

-v-

Ofsted

Respondent

DECISION

The Application

1. This is an appeal of IN ("the Appellant") against the Respondent's decision of 26 July 2024 to cancel the Appellant's registration as a childminder on the Early Years Register and both the compulsory and voluntary parts of the General Childcare Register, under section 68 of the Childcare Act 2006. The appeal is opposed by the Respondent on the basis that the Appellant no longer meets the prescribed requirements in relation to both suitability and ability to meet / sustain the requirements imposed by Regulations, including the Statutory Framework for the Early Years Foundation Stage ('EYFS').

2. The Tribunal extended the order made on 18 April 2024 under Rule 14(1)(a) and (b) of the 2008 Rules which therefore remains in place. This prohibits the disclosure or publication of any documents or matter likely to lead members of the public to identify the children involved in these proceedings. For the avoidance of doubt, this will include disclosure or publication of the names of the parents, the children and the Appellant, given the fact that the Appellant was only caring for a small number of children.

3. We carefully considered all the written evidence submitted to the Tribunal in advance and during the hearing and the oral evidence given to us at the hearing even if we do not mention it. We have read the bundle and the late evidence that was admitted during the course of the hearing, and watched the MP4 files of video downloads from the Appellant's doorbell camera. We heard evidence from the parties witnesses as detailed above.

Attendance

4. The Appellant, IN, attended the hearing supported by her father, who was present throughout but did not give evidence.
Ms Katherine Barnes, Counsel for the Respondent. Ms Wendy Guttridge, solicitor attended on days 1 and 2. The Respondent's witnesses Ms Joannne Wildman and Ms Kathryn Irvine gave oral evidence.
The Appellant gave oral evidence and her witnesses gave evidence remotely. They were Mr and Mrs B, Ms C M, Ms J E, Ms S L and Ms O S-O.
Judge Dawn Hyland attended as an observer on day 1.

Preliminaries/Late Evidence

5. The tribunal acknowledged that the Appellant was a litigant in person and indicated that if she needed breaks or additional time to consider any new oral or other evidence, she would be able to do so, and, if necessary, the tribunal could assist her in framing her questions if she had any difficulties. During the hearing the Appellant was able to effectively deliver the questions that she had prepared in advance and was given over an hour to consider her closing submissions. The panel explained the procedure and answered any questions the Appellant had in relation to the process and provided clarification when she needed it. We were satisfied that she was able to understand and take a full part in the hearing. We noted the appeal had been stayed twice before to allow the Appellant to seek legal representation.

6. On the morning of day 1 of the hearing the Respondent submitted a bundle of documents which included the parties' skeleton arguments, updated trial timetable and Scott schedule, corrected chronology, complete printout of attendance registers and colour copies of the same. It also included copies of the late evidence from the Appellant in the form of supportive statements that had previously been disclosed. As there was effectively no new evidence the bundle was admitted.

7. Shortly prior to the commencement of the hearing the Appellant had lodged a bundle of late evidence consisting of 21 items including letters of support, emails and other documents only a small number of which had been previously disclosed. It was not until the hearing commenced that it was apparent that the Appellant had not provided the Respondent with a copy of these and a short adjournment was allowed for the Respondent to consider them. The Appellant made an application for the late evidence to be admitted which was opposed by the Respondent on the basis that it included substantially new evidence and the Appellant had had ample opportunity to provide these over the course of the appeal and that there was no reasonable explanation provided for the delay

in providing them. After careful consideration we decided that although much of the evidence was new, the vast majority of it consisted of additional supportive statements from satisfied parents, certificates of business awards and a staff survey. As the appeal is listed for 4 days there was ample opportunity for the Respondent to consider the documents within the present time estimate, and having regard to the fact that the Appellant was a litigant in person, the documents were admitted. Oral evidence on the first day of the hearing ended early to give the Respondent the rest of the afternoon to consider the documents.

8. On day 2 of the hearing the Appellant applied to admit a further bundle of late evidence consisting of 48 separate documents. Having considered the contents of the bundle, and having regard to the overridding objective, the tribunal did not allow admission of the evidence. It was explained to the Appellant that much of the documentation applied to previous suspension applications which were dealt with in her subsequent evidence and submissions. On day 3 the Respondent agreed to the suspension lifting requests to be admitted. Things that related to courses that she had undertaken could be referred to in her oral evidence if there was any dispute although it was unlikely that the Respondent was taking any issue in relation to the courses she had attended. Evidence in relation to the complaints she had lodged against the Respondent were not going to assist the tribunal as the tribunal could not make any findings in relation to complaints and many of the issues she had raised would be dealt with in the large volume of evidence she had already submitted to the tribunal. Evidence that related to the financial effects of suspension were unnecessary as the Respondent was accepting that the loss of the Appellant's business would have caused significant financial consequences. We had regard to the overriding objective and the potential disadvantage to the Respondent in considering 48 documents on day 2 of the hearing, and having regard to the opportunities that the Appellant has had to adduce any evidence and respond to the tribunal bundle which had been submitted to her by the Respondent on 17 April 2025 and 19 May 2025. The Appellant had had sufficient opportunity to identify anything she felt was missing from the bundle and respond accordingly. The application to admit the further evidence was therefore dismissed with the proviso that the Appellant may refer to some documents in her oral evidence should they become directly relevant.

Background

9. The Appellant was registered on the Early Years Register on 19 March 2021. She had previously been registered from 19 January 2012 to 8 July 2019, when she resigned following an OFSTED rating of inadequate, which led to the suspension of her registration in July 2019.

10. On 15 December 2023, the Respondent received notification from the LADO (Local Authority Designated Officer) at Bexley local authority regarding a safeguarding incident in which it was alleged that the Appellant had hit a child on the head with a phone. This was reported by the Appellant on the same date. The police investigated and the Appellant attended a voluntary police interview on 18 December 2023 and a letter of notice confirming suspension of registration was issued by the Respondent the same day.

11. The Appellant was interviewed by the Respondent's inspectors on 1 February 2024. On 5 March 2024, the police concluded their investigation with no further action. On 8 March 2024, the multidisciplinary LADO investigation substantiated the allegation regarding emotional harm. On 25 March 2024, the Respondent issued a notice of intention to cancel the Appellant's registration in accordance with s68 Childcare Act 2006. This was confirmed on 26 July 2024 and a notice of decision to cancel was issued. The period of suspension has been renewed continually since 18 December 2023 with the tribunal confirming the suspensions in decisions dated 5th March 2024 and 19th December 2024.

Legal Framework

12. The legal framework for the registration and regulation of childcare providers is to be found in Part 3 of the Childcare Act 2006 ("the Act"). The requirements are prescribed by the Childcare (Early Years Register) Regulations 2008 ("the Regulations") and include requirements which stipulate that the person registered is suitable and they will comply with the requirements set out in the Early Years Foundation Stage ("the EYFS"). In addition, for those registered on the General Childcare Register, the requirements are set out in the Childcare (General Childcare Register) Regulations 2008 and also include a requirement that the person registered is suitable to care for children.

13. Section 68(2) of the Act states that Ofsted may cancel a person's registration (a) if it appears that these requirements cannot be satisfied and/or (c) if the registered person has failed to comply with a requirement imposed by the Regulations.

14. Section 73 of the Act provides that, if it is proposed to cancel registration, Ofsted is required to give notice of the same and set out the reasons for the decision and the rights of the registered person to object either orally or in writing. The registered person must be given the opportunity to object and, if they do so, this will be considered before the decision to cancel is made final. If the final decision is to cancel then, again, notice to the registered person must be given.

15. Section 74(1) of the 2006 Act provides a right of appeal to the Tribunal and the decision does not take effect until either the time limit for lodging an appeal expires, or if an appeal is so lodged, until the conclusion of the proceedings.

16. The legal burden of proof at appeal lies with Ofsted, who must establish the facts upon which it relies to support cancellation. It must also demonstrate that the decision to cancel the Appellant's registration is proportionate and necessary.

17. The standard of proof to be applied is the "*balance of probabilities*"; in other words that the Tribunal must be satisfied it is more likely than not, that the facts as asserted by Ofsted are true. The Tribunal makes its decision based on all the evidence available to it at the date of the hearing and is not restricted to the matters available to Ofsted when the cancellation decision was taken.

18. The powers of the Tribunal can be found in section 74(4) of the 2006 Act.

Essentially the Tribunal may either confirm Ofsted's decision to cancel or direct that it shall not have effect. If the Tribunal decides that cancellation should not have effect, it may impose conditions on the Appellant's registration, or vary or remove any of the current conditions.

Evidence

19. We carefully considered all the written evidence submitted to the Tribunal in advance and during the hearing and the oral evidence given to us at the hearing even if we do not mention it. We have read the bundle and the late evidence that was admitted during the course of the hearing, and watched the MP4 files of video downloads from the Appellant's doorbell camera and we heard evidence from the parties witnesses as detailed above.

20. We heard oral evidence from Joanne Wildman who confirmed the contents of her statements dated 29th November 2024 and 6th of January 2025. She was questioned by the Appellant who questioned whether Ms Wildman had taken into account the various testimonials and evidence of the work she had undertaken when confirming her decision to cancel registration. She responded by acknowledging that there were positive testimonials but they were not sufficient to change her view in terms of non-compliance and the need to have regard to the welfare of children. She commented that the testimonials were not from experts familiar with the requirements of registration. The Appellant suggested that Ms Wildman had a predetermined bias and did not accept the various training and reflection that had been undertaken. Ms Wildman accepted that Appellant had undertaken courses but confirmed that she had no bias and her views were based upon what she saw was a history of non-compliance and that she did not believe that the Appellant was able to implement the things that she promised. The Appellant asked how she can prove that she had changed and Ms Wildman confirmed that they could not put a child at risk in order to test that out, and that the Appellant had a right of appeal. Throughout the process she had always kept the decision under review but none of the further evidence changed her view.

21. Ms Wildman suggested that the Appellant's reflective journey did not start until July 2024 when she first acknowledged that a child was subject to emotional abuse following the conclusions of the expert professional group. In addition, the Appellant had previously attended a number of courses which still resulted in the incident in December 2023 and the risk of harm that followed. Ms Wildman responded to questions in relation to the permitted number of children per carer as set out in the regulations and confirmed that regulation 3.41 and 3.43 had to be read together and the net effect that was that there was a breach of the ratio of adults to children as outlined in the regulations. It also demonstrated that none of the exceptions were applicable to the Appellant's circumstances. In response to questions from the panel, Ms Wildman felt that the Appellant could still not explain the rationale of what happened in the incident in December 2023 and therefore demonstrated no insight and provided no reassurance that that it could not happen again.

22. Ms Wildman was an impressive witness who provided very clear evidence as to her reasoning in terms of the history of engagement with the Appellant and

the reasons for the Respondent maintaining their position on the basis of a history of non-compliance and resultant risks. There was no evidence to suggest that she was in any way biased against the Appellant and clearly explained her reasoning as to why the training undertaken by the Respondent, and the evidence from those supporting her, did not satisfactorily address the underlying issues of the risk of non-compliance and risk of harm to children. She has no reason to embellish or fabricate evidence as suggested by the Appellant. We accept her evidence in its entirety.

23. Ms Kathryn Irvine confirmed the truth of her statement dated 29 November 2024 and gave oral evidence. In examination in chief she explained in some detail the history of her involvement. She explained the sequence of events confirming that the Appellant provided two different registers when asked – the initial register listed five children and the subsequent one listed nine children. She explained the incremental way the Appellant had provided the information in response to the unequivocal request to provide details of all children being cared for. She had observed in the video evidence the presence of the sixth child not referred to in the original list provided. She emphasised that it was not for the Respondent to identify the number of children cared for by perusing the video but for the Appellant to provide such information as she was specifically asked to do. She accepted that child J, whose name is entered in a different colour, had not been added subsequently as the photograph provided by the Appellant had a date stamp.

24. Ms Irvine explained in some detail how the exceptions in the regulations regarding ratios could not apply to these circumstances having regard to the age of the children involved. She referred to the regulations which clearly stated that any exceptions were in the alternative and could not be construed together in order to allow multiple exceptions to the requirements.

25. Under cross examination from the Appellant, Ms Irvine confirmed that Ofsted had seen additional video footage provided by the Appellant which did not show any concerns. However she confirmed her view of the video of 13th December 2023 as to the inappropriateness of the Appellant's conduct and in particular her initial description of her conduct as being normal "You could see in the footage that the children are not worried. You can see that there was no truth in the allegation. How I am telling her off there is not how I would not tell her off in front of her parents"

26. Ms Irvine gave very clear, consistent and credible answers to all of the questions put to her and was an impressive witness who has taken a wholly professional approach to her assessment of the evidence, risk and proportionality. There was no indication throughout her evidence that she was in any way biased in her dealings with the Appellant. It was clear that although she had taken into account all of the evidence from the Appellant, this had not changed their view which was based upon a thorough and professional assessment of risk and proportionality.

27. On the second day of the hearing Ms Wildman gave further evidence simply to deal with the issues raised in the late evidence provided by the Appellant on the first day of the hearing. In summary, she confirmed that none of the

additional evidence that been admitted on the first day affected her conclusions in relation to the proportionality of the Respondent's decision.

28. We heard oral evidence from Ms J E who confirmed the contents of her statement. She confirmed the contents of her two statements and confirmed in oral evidence that she was a cleaner and would sometimes see the Appellant playing with the children as she was going about her work and confirmed the positive observations as set out in her written evidence.

29. Under cross examination, she accepted that there was a period of up to 30 minutes when there was a crossover period from when she arrived at the house, whilst the children were being prepared for the school run. She denied that she had been left with any children or was an assistant looking after the children. She confirmed that she had worked for by the Appellant from 19th of March 2021 and her suitability checks were completed in January 2025. She stated that she never had to provide DBS checks with other people she has worked for. She was asked about her first statement when she described the Appellant as being fit and in good health and responded generally by talking about 'hidden' disabilities. Ms J E was not an impressive witness. There was some concerning contradictions in terms of her stated ability to have reported positive interactions between the Appellant and the children and her evidence that she was only a cleaner and could only overhear interactions when she passed doorways. Whilst we accepted Ms J E was not responsible for non-compliance with the EYFS her evidence in that regard, whilst clearly attempting to be supportive of the Appellant, was contradictory and unreliable.

30. Both Mr and Mrs B gave oral evidence remotely and confirmed the contents of their witness statements. They confirmed their positive views in relation to the Appellant's abilities and the positive impact that it had on their children. They commented upon the setting which they regarded as safe and the expressed no concerns in relation to safety and welfare of the children while in the Respondent's care.

31. Ms S L gave oral evidence remotely and confirmed the contents of her statement. She confirmed her child was well looked after by the Appellant and that she had no concerns. We note she alleged cultural bias and lack of consideration in relation to the Appellant's own neurodiversity and commented that the Appellant has now recognised that she could manage the situation differently and reflected on how she could implement change for better practice.

32. Ms C M gave oral evidence remotely and confirmed the contents of that statement. She confirmed she was very satisfied with the care the Appellant provided.

33. Ms S O gave evidence remotely and confirmed the contents of her statement. She confirmed the positive effects of the children's time with the Appellant in terms of their behaviour and attitude. She confirmed that subsequent to the Appellant's suspension she used her occasionally as a nanny to pick her children up from school and take them back to Ms S O's home.

34. The Appellant gave oral evidence over day 2 and 3. She gave her evidence in

chief and made further comments in reply to cross examination. We refer to the relevant parts of the oral evidence in our findings below.

35. During the Appellant's evidence the tribunal viewed the short video clips that were produced following the allegation in December 2023 that the Appellant had struck the child with the phone. Although the video does not support that allegation, and the Appellant explained technical reasons why there were some short periods of recording that was not available, the video clearly shows behaviour on the part of the Appellant towards a young child where she is seen to blame her for having yoghurt on her face and not accepting that fact. She involves other children in the incident. On the view of a multidisciplinary meeting and the LADO this constitutes emotional abuse of a young child.

36. In her oral evidence the Appellant accepted some specific breaches of the EYFS but her evidence was largely evasive; blaming her misunderstanding of the regulations or those that she employed for not going through the formalities of notifying the Respondent that they were caring for children. Further, although she indicated that she would cooperate with the Respondent in the future she repeated allegations that the Respondent had falsified evidence stating that she has recordings of relevant telephone calls which would establish that. However, she provided no explanation of why these had not been produced in her various suspension meetings with the Respondent or during the course of this appeal.

The Tribunal's conclusions with reasons

37. We accept the evidence from the Respondent's professionals in relation to all of the findings sought in the most recent version of the schedule of allegations, save for that relating to repeated breaches of providing unregistered care between registrations, which was conceded by the Respondent. Both of the Respondent's witnesses gave very clear and detailed evidence, relying on specific references to contemporaneous recordings of interviews and telephone calls, and there was no evidence to suggest, and it is inherently unlikely, that they would have embellished or tampered with evidence in the way that the Appellant specifically suggested. When questioned by the Appellant they responded clearly and logically to the suggestion that they had not given her the opportunity to prove that she had changed and confirmed they had not resulted in any significant insight or change such as to change their opinions.

38. We carefully considered the various statements and oral evidence from the Appellant's witnesses who were parents of children she cared for, her cleaner or members of staff. In summary, they were very satisfied with the Appellant's care of their children and without hesitation support and recommend her. Some of the statements are very critical of the Respondent, effectively adopting the Appellant's view that she has been the subject of bias or poor treatment. We note the Appellant's view, even at the very end of her closing submissions referring to Ofsted's "betrayal of me". Whilst we acknowledge that these parents were satisfied with the care provided to their children, we can attach little weight to them as none of them would have observed the Appellant caring for their children when they were not present. They provide sweeping statements that are not supported by any direct observations. They would not be aware of the ratio and other requirements in the EYFS and would not have been aware of

the extent of the Respondent's evidence in relation to previous non-compliance.

39. We considered the business award certificates that were provided in the Appellant's late evidence. They relate to a period when she was not childminding and provide no details as to the criteria applied to such awards and have no relevance to the issues in the appeal. Similarly the list of courses attended were largely online and there is no independent evidence that the Appellant had achieved significant insight or change in her understanding and ability to be open and honest with the Respondent.

40. We considered the letter from Ms S H dated 5 August 2025 which was submitted as late evidence. It is effectively provided as expert evidence. Little weight can be attached to it. Firstly as a psychotherapist she has far exceeded her expertise in her assessment of the Appellant in terms of her progress and behaviour management. It does not set out the nature and extent of the work that she has done with the Appellant. Her sweeping conclusions in relation to both the Appellant's past and future abilities can only be on the basis of the Appellant's self-reporting which Ms S H has clearly accepted in their entirety. She refers to significant improvements in her practice as a childminder which she can have no direct knowledge of and does not distinguish, to any extent, what she has been told from her own conclusions. Therefore we cannot attach any weight to the letter.

41. We find that the Appellant caused emotional harm to a two-year-old child in her care, that she has failed to accept full responsibility for her wrongdoing, and has shown improving but still limited insight into the impact of her actions on the children involved. She has not shown any sufficiently improved knowledge of implementing appropriate behaviour management strategies.

42. It was clear from the evidence from the Respondent's professionals that the Appellant's initial response was to try and justify her actions and minimise the effects on the children concerned. She clearly viewed the incident as one which warranted some sort of disciplinary intervention and only reluctantly accepted that it was emotionally abusive. On the evidence it was clear it was not until July 2024, seven months after the incident concerned, that she accepted that she was wrong in the light of the overwhelming conclusions from professionals. We accept that that was not as a result of significant insight but a response to the reality of her situation.

43. We must of course look at the position as at the date of the hearing on the evidence that the Appellant has provided to support her contention that she has now achieved insight and learnt other techniques to manage the children in her care. The Appellant referred to the many courses that she had undertaken. Whilst we accept the significant efforts the Appellant has made to try and address issues, no detailed evidence was provided as to the actual nature of these courses and the extent to which they involve any independent assessment or testing of knowledge. She accepted that the majority were Internet-based courses. Even those that involve some interaction did not result in any independent evidence being provided as to insight or improvements as assessed by someone qualified to do so. No significant weight can be attached to them as a result.

44. When the Appellant was giving oral evidence, she was asked about the incident in December 2023 and how she would approach it now. It was clear from her evidence that she was aware that the child concerned was “out of sorts” and not behaving in the way she was expected to. In her statement of evidence she described taking a ‘holistic approach’ to the situation in future and that she ‘would not be quite as harsh’. In her responses to questions she was not able to explain what she meant by taking a ‘holistic approach’ and still characterised a response as being punitive for the child not accepting that she had food on her face. Even after a significant period during which the Appellant has ‘reflected’ upon the incident, she clearly still views it as a disciplinary issue rather than identifying a need to understand why the child may be presenting in a particular way and take appropriate supportive measures. We find that, even now, the Appellant has not achieved any significant insight or improvement in her ability to manage behaviour.

45. We find that the Appellant has failed to sufficiently implement and/or maintain the requirements of the EYFS in respect of staff to child ratios. We accept the evidence from the Respondent’s witnesses in that respect for the reasons already stated. In her response to the Scott schedule the Appellant strongly disputes the allegation on the basis that she is addressed the problems subsequently and implemented robust systems. The evidence was overwhelming that there had been repeated failures to maintain the requirements of the EYFS in respect of staff to child ratios. On an unannounced visit on 20 May 2019 the Appellant claimed that one of her assistants had called in sick that morning and in her oral evidence suggested that the inspector had ignored her explanation. Her evidence was evasive on this issue and she accepted no responsibility for it even now.

46. In relation to the incident in December 2023 she accepted that she was in breach of the ratio requirements. In her oral evidence she accepted that in 2019 the issue of ratios was explained to her and that she would have no excuse for not applying them. She then gave a confused and wholly unconvincing explanation as to why she failed to report the presence of J, a sixth child who was present during the video when asked to indicate the children who were present at the time. It was clear from the communications with her beforehand from the Respondent that she was being asked which children were present. In the Appellant’s responses she suggested that as the Respondent had not noticed the sixth child on the video themselves, it was somehow reasonable for her not to notice herself that a sixth child was present. Her response was entirely unconvincing and concerning. Although the evidence in relation to staff ratios was very clear, it is the evasive approach of the Appellant, and the lack of an acceptance of responsibility for failings which causes significant concern.

47. Although the Appellant provided some evidence from her previous staff in the form of statements and a staff survey, we note these witnesses were not called by the Appellant to give oral evidence and were not subject to cross examination. Broad assertions in those statements that the ratios were not breached contained no specific supporting evidence and it is unclear whether those staff members would have been fully aware of the ratio requirements and how they must be applied. We can attach very little weight to that evidence as

a result. In the Appellant's oral evidence she accepted there had been breaches of the EYFS and tried repeatedly to argue that she had misinterpreted the exceptions to the regulations. Her explanations in this regard were evasive and wholly unconvincing. At one point she suggested that the sibling exception would apply to a child even though that sibling was 'on her books' but not present at the time. Either this displays a concerning fundamental lack of understanding of the EYFS or a deliberate attempt to mislead in order to justify blatant breaches. Either way it is clear that the Appellant is not able to display candour and be honest in her dealings with the Respondent.

48. We find that the Appellant has failed to sufficiently implement and maintain the requirements of the EYFS in respect of the suitable people requirements. The Appellant has repeatedly breached the requirement by allowing unvetted assistants to care or be present when children are cared for.

49. For the reasons stated above we accept the evidence from the Respondent's witnesses in relation to these breaches. The Appellant accepted in her evidence that Ms J E, her cleaner, who gave oral evidence confirming that she was present for some time from 1:30-2 PM when the children were being cared for. She also made comments in her statement as to the positive care provided by the Appellant which suggested some degree of direct presence. Ms J E had worked at the setting for five years and it was only in the Appellant's second statement that she confirmed that the presence of Ms J E had now been notified to the Respondent - some four years after she should have been. Further examples, which were accepted by the Appellant as being in breaches of the regulations, were in relation to M who was working for a trial period. In her oral evidence, rather than accept responsibility for the breach, the Appellant gave explanations of the practical difficulties that would be involved in employing people for trial periods and the burden of having to notify the Respondent. The Appellant's responses and explanations gave us no confidence that she will be open and honest with the Respondent in the future.

50. We note on several occasions the Appellant blamed a lack of notification on administrative errors on the part of her staff without accepting responsibility that she was the one that must ensure appropriate reporting. Again, this demonstrated a lack of integrity and unwillingness to accept responsibility for clear breaches of the EYFS.

51. We find that the Appellant has failed to sufficiently implement and/or maintain the requirements of the EYFS in respect of information and record-keeping. There are several examples of this described by the Respondent's witnesses. For example, it was clear from the evidence referred to above that the Appellant provided two different registers in relation to the December 2023 incident and never mentioned the sixth child seen in the video until questioned about it. Her explanation for this was unconvincing and showed an inability to accept responsibility for failings.

52. We find that the Appellant has failed to sufficiently implement and/or maintain the requirements of the EYFS in respect of requirements relating to behaviour management, and supporting children's personal social and emotional development. Although we recognise the Appellant has made some attempts

to address those issues for the reasons we have referred to, she has not reached a level of insight and understanding such that we can be confident that children in her care would not continue to be at risk. Although we accept that she has put in place an updated behaviour management policy the existence of a policy is no guarantee that its principles are understood and will be implemented in the future.

53. We find that the Appellant has been unclear in relation to health issues particularly in respect of mobility and the use of the disability blue badge and potential ADHD and mental health issues. At initial registration, the Appellant indicated she had a bad back and only needed medication if she lifted something heavy and there was no impact on her ability to lift children all her mobility. In February 2024, she disclosed she had a disability blue badge the criteria for which under the Bexley local authority online tool would be that this would impact upon her ability to care for children. The Appellant submitted an updated health declaration form in which her GP states that her mobility is affected at a functional level but no details are provided. The Appellant also suggested she may have ADHD at a previous suspension hearing which was not on her health declaration. In cross examination the Appellant did not seem to appreciate the contradictory nature of her evidence. The criteria for getting a blue badge clearly involves some significant mobility impairment. On 7 March 2024 when she completed the online tool with the Respondent's inspector it stated that she would not be eligible. Either the appellant had not been open and honest in her application for a blue badge or was not being honest with the Appellant. The Appellant was not able to give any credible explanation of her position in her evidence and was at best evasive.

54. We find that the Appellant lacks the integrity and ability to work with the regulator in an open and transparent manner both in her previous registration application and in her current registration. It is clear from the evidence from the Respondent's witnesses and from the Appellant's oral evidence that she continues to be evasive, fails to accept responsibility for past breaches, and still alleges unsubstantiated bias and discrimination on the part of the Respondent. At the end of her closing submissions she referred to Ofsted's "betrayal of me" which suggest that she still does not accept responsibility for past failings which gives us no confidence that she will do so in the future. We note that during her evidence at the hearing, she continue to maintain that the Respondent has effectively fabricated evidence in terms of their records of interviews and telephone conversations that they have made contemporaneously. She repeatedly stated that she had recordings of the telephone conversations which proved her account. However she confirmed that she did not share the recordings with her solicitor that she had previously instructed and had not sought to introduce them as evidence into this appeal or any of the suspension meetings and hearings that she has been involved in. It is inherently improbable that the Appellant would fail to produce such important evidence if it existed.

Proportionality

55. We accept the evidence from the Appellant and her supporting witnesses as to the significant impact that the cancellation of registration will have on her professionally, emotionally and financially. Additionally it will affect those who

wish to use her services now and in the future. Some parents have been unable to find alternative childminders. We have to weigh those factors against the risk of harm to children that she may care for, and a lack of candour and trust that is essential for an effective relationship with the regulator. As the Appellant still lacks insight, has been repeatedly evasive, unable to accept responsibility for past breaches, and at times dishonest, we can have no confidence that she can maintain an open and honest relationship with the Respondent in the future. Her continuing lack of insight into the effect of her emotional abuse of a young child means that a risk of significant harm remains. There is no interim or other measure that could be put into place that would alleviate these concerns and we therefore find that cancellation is now both proportionate and necessary.

Decision:

1. The appeal is dismissed.

2. The Respondent's decision of 26 July 2024 to cancel the Appellant's registration as a childminder on the Early Years Register and both the compulsory and voluntary parts of the General Childcare Register, under section 68 of the Childcare Act 2006, is confirmed.

District Judge L Ford

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

Date Issued: 07 July 2025