

Social Worker:
Esther Abimbola Owolabi
Registration Number: SW83751
Fitness to practise: Final hearing

Dates of hearing: 18 January 2021 – 22 January 2021

Hearing Venue: Remote hearing

Hearing outcome: Removal order

Interim order: Interim suspension order (18 months)

Introduction and attendees

1. This is a hearing held under Part 5 of the Social Workers Regulations 2018.
2. Ms Esther Abimbola Owolabi, the social worker, did not attend and was not represented.
3. Social Work England was represented by Ms Louisa Atkin, instructed by Capsticks LLP.

Adjudicators	Role
Ian Spafford	Chair
Jill Wells	Social Worker Adjudicator
Sally Underwood	Lay Adjudicator

Jyoti Chand	Hearings Officer
Robbie Morgan	Hearing Support Officer
Graeme Dalglish	Legal Adviser

Service of Notice:

4. Ms Owolabi did not attend and was not represented. The panel of adjudicators (hereafter “the panel”) considered the notice of this hearing which was sent on 14 December 2020 to Ms Owolabi by special delivery post and by email to her addresses held on the Social Work Register.
5. The panel accepted the advice of the legal adviser in relation to service of notice. Having had regard to Rule 14 (the Fitness to Practise Rules) and all of the information before it in the service bundle, the panel was satisfied that proper notice of this hearing had been served.

Proceeding in the absence of Ms Owolabi:

6. The panel heard the submissions from Ms Atkin on behalf of Social Work England. She submitted that notice of this hearing had been duly served. She referred to the relevant case law and reminded the panel that there was a burden on a registrant to engage with their regulator. She set out a brief chronology of the case and the correspondence with Ms Owolabi and her then solicitors regarding the scheduling of the final hearing. Disclosure for the case had been completed on 8 November 2020.

7. Ms Atkin invited the panel to proceed in the absence of Ms Owolabi taking account of Ms Olowabi's response. She was first made aware of the final hearing dates on 1 October 2020 and she has not sought an adjournment. Ms Owolabi sent an email on 9 January 2021 to Social Work England stating that she would not attend the final hearing. Ms Atkin submitted that it was in the public interest to proceed with the hearing.
8. The panel considered whether to proceed in the social worker's absence and accepted the advice of the legal adviser. He referred to Rule 43 of the Rules and to the authoritative guidance in Adeogba v GMC [2016] EWCA Civ 162. This makes clear that the first question the Panel should ask is whether all reasonable efforts have been taken to serve Ms Owolabi with notice. Thereafter, if the panel is satisfied on notice, the discretion whether or not to proceed must be exercised having regard to all the circumstances of which the panel is aware, with fairness to Ms Owolabi being a prime consideration, but with fairness to the regulator and the interests of the public also considered.
9. The panel considered the email from Ms Owolabi dated 9 January 2021. She is aware of the hearing and has clearly stated that she will not be attending. She has not asked for an adjournment. The panel decided that in these circumstances it was fair and appropriate to proceed in the absence of Ms Owolabi and that there was a public interest in the expeditious disposal of this hearing which related to an allegation arising in 2015 - 2016.

Private matters

10. The panel, having taken legal advice, decided that if and when any matters of a personal or private nature arise it was in the interests of justice for those parts of the hearing to be heard in private in order to protect the interests of Ms Owolabi and service users.

Application to Amend the Allegation

11. Ms Atkin sought to amend the allegation. She submitted that the proposed amendments were sent to Ms Owolabi on 1 October 2020. She submitted that the proposed amendments seek to add clarity and specifics to the allegation and she referred to her Statement of Case. She submitted that the proposed amendments are intended to better reflect the evidence and ensure that the allegations are consistent with the decision of the previous regulator's, the Health and Care Professions Council (the HCPC) Investigating Committee on 12 September 2019, and to provide clarification with a view to assisting Ms Owolabi in understanding the case against her.
12. Ms Atkin submitted that with regards to the proposed amendments to paragraph 7 in particular, Social Work England are conscious of the need to ensure that allegations of dishonesty are specific and particularised. She submitted that the proposed amendments can be made without causing any injustice or prejudice to Ms Owolabi

and do not alter the substance of the allegations or increase the overall seriousness of the case.

13. The panel accepted the advice of the legal adviser. He reminded the panel that it must consider the overall impact of the proposed amendments on the nature and gravity of the allegation and be mindful of the interests of justice.
14. The panel considered the proposed amendments to the allegation in respect of which Ms Owolabi received notice on 1 October 2020. It noted the further particulars and specifics proposed which it concluded make the allegation clearer. The proposed amendments make out a more specific case than previously and allow Ms Owolabi to know more precisely what it is that is alleged, including what is alleged to have been dishonest and to lack integrity.
15. The panel decided that the proposed amendments do not alter the overall nature or gravity of the allegation but serve fairly and appropriately to provide clarity and precision. The allegation is not materially altered or more serious as a result. Ms Owolabi has had ample opportunity to respond.
16. In all these circumstances the panel concluded that it was fair and in the interests of justice to allow the amendments as proposed.

Allegation

Whilst registered as a Social Worker and working at Wandsworth Council between 5 March 2015 and 4 April 2016, you:

1. *Retained possession of a bank card belonging to Service User A and/or Service User B ("the bank card") between mid-2015 and 9 February 2016.*
2. *Did not make any, or any adequate record of:*
 - a. *the fact that you had retained the bank card and/or your reasons for doing so;*
 - b. *whether or not you had agreement/consent from Service User A and/or Service User B to retain the bank card;*
 - c. *each time you were present when money was withdrawn using the bank card and/or the reason(s) for the withdrawal.*
3. *In relation to your retention of the bank card and/or involvement in withdrawals being made from the account of Service Users A and B, you;*
 - a. *did not disclose this to your manager at any point between mid-2015 and 9 February 2016; and/or*

- b. provided false and/or misleading information to your manager about this on one or more occasions in or around February and/or March 2016, in that you;*
 - i. suggested that Person C had responsibility for the bank card and did not mention that you had been in possession of it in the period between mid-2015 and 9 February 2016;*
 - ii. suggested that you had only been in possession of the card on three occasions when Person C was away and/or had handed the bank card back to Person C in November.*
- 4. Did not raise a safeguarding alert regarding potential financial abuse of Service User A and/or Service User B following concerns being raised with you by Person D on or around 27 January 2016, about withdrawals that had been made from a joint bank account belonging to Service Users A and B.*
- 5. Did not complete and/or record a Mental Capacity Assessment on Service User A and / or Service User B:*
 - a. before retaining the Bank Card and/or*
 - b. before making withdrawals on their behalf;*
- 6. Did not complete and/or record a risk assessment:*
 - a. before retaining the Bank Card and / or*
 - b. making withdrawals on Service User A and / or Service User B's behalf.*
- 7. Your actions at:*
 - a. paragraph 1 lacked integrity, in that you retained the bank card over a prolonged period despite knowing that it was not appropriate for you to do so;*
 - b. paragraph 2 and/or 3a were dishonest, in that you deliberately failed to record and/or disclose information relating to your possession and/or use relating to the bank card as you knew that the arrangements you had made were inappropriate;*
 - c. paragraph 3b were dishonest, in that you knowingly provided one or more accounts to your manager which you knew were false and/or misleading;*

- d. paragraph 4 were dishonest, in that you failed to raise a safeguarding alert in an attempt to conceal that you had retained and/or been involved in the use of the bank card.*
- 8. *The matters described in paragraphs 1 - 7 amount to misconduct.*
- 9. *By reason of your misconduct, your fitness to practise is impaired.*

Background

- 17. On 12 April 2016, the HCPC received a referral regarding the social worker, Esther Ambimbola Owolabi. Ms Owolabi commenced employment with Wandsworth Council ("the Council") in September 2009 and at the time of the alleged misconduct was working as a Senior Social Worker in the Community Learning Disability Team.
- 18. Ms Owolabi began working with Service User B in 2012 and in 2014 was also allocated Service User A. Service User A and Service User B were a married couple living in sheltered accommodation which was managed by Person C. Service User A has a moderate learning difficulty, and is unable to read or write. Service User B had a learning disability, sensory impairments, significant physical disabilities and significant physical health concerns.
- 19. Prior to Ms Owolabi having any involvement with Service User A and Service User B, a previous social worker had made arrangements that the bank cards for Service User A and Service User B's joint account would be kept with Person C in the accommodation's safe, and that Service User A and/or Service User B would be supported to access money from the bank by a social worker or support worker. In reality Service User B's physical health meant that it was only Service User A who would ever attend the bank. The rationale for creating a joint account and storing the bank cards in the safe appears to have been to address concerns about Service User A's ability to manage her finances, including that she would "drain" the account if she were to have unfettered access to it.
- 20. Service User B died in hospital in January 2016 and following Service User B's death, Service User A's sister-in-law (Person D) provided support to Service User A. In the course of making arrangements for the payment of funeral costs and attending the bank with Service User A on 27 January 2016, Person D noted a number of withdrawals and transactions on the statement for Service User A and Service User B's joint account which she felt were suspicious. Person D spoke with Ms Owolabi on the same day about her concerns and said that she understood that Ms Owolabi would follow up these concerns. Person D also sent Ms Owolabi a follow up email. As she had not received a satisfactory response, she escalated her concerns to Ms Owolabi's line manager, Ms Daniel, and spoke with her on 26 February 2016.

21. Ms Owolabi had not escalated the concern raised by Person D by informing her manager and raising a safeguarding alert. A safeguarding referral was later raised in respect of Person D's concerns, citing financial and material abuse. The Council also initiated investigations regarding Ms Owolabi's failure to raise a safeguarding alert, escalate matters and about the use of the bank card. Ms Owolabi later accepted that the bank card had been kept and used for approximately six months and that she had not kept records in that regard. Ms Owolabi stated that she could not recall whether she had told her line manager but accepted that Person D had raised the issue with her and that she should have raised a safeguarding alert and kept appropriate records. Investigations also found there had been a lack of evidence of consent being obtained and inadequate record keeping in relation to how Service User A and Service User B were being supported with the management of their finances. There was concern that money may have been stolen.
22. After preliminary investigations by the Council, a Safeguarding Adults Referral in relation to financial abuse was completed on 5 March 2016. A referral was also made to the police to investigate whether Ms Owolabi had stolen funds from the joint account of Service User A and Service User B. The police concluded that there was insufficient evidence and took no further action. Ms Owolabi was also subject to investigation by the Council including in relation to her decision to take possession of the bank card, her response to the concerns raised by Person D and the accuracy of information she had provided to her manager regarding her involvement with Service User A and Service User B's finances. A subsequent referral was also made to the HCPC.
23. It is alleged that Ms Owolabi's conduct lacked integrity and was dishonest given the lack of records and in retaining and involvement with the bank card. It is alleged that a safeguarding alert was not raised by Ms Owolabi in order to conceal her retention and involvement with the use of the bank card and she had not given Ms Daniel a full and honest explanation. It is also alleged that there was a failure to conduct a mental capacity assessment, risk assessment, and to complete adequate records.
24. Social Work England called evidence from four witnesses:
- (a) Sydney Hill, Operations Manager for Adult Social Services, Wandsworth Council, who was tasked with carrying out a disciplinary investigation into allegations relating to Ms Owolabi's conduct;
 - (b) Keith Parcel, Fraud Investigator employed and instructed by the Council in respect of the alleged fraud by Ms Owolabi.

- (c) Person D, Sister-in-Law of Service User A, who spoke to Ms Daniel on 26 February 2016 to escalate her concerns about the matters which she had previously brought to the attention of Ms Owolabi.
- (d) Carol Daniel, Service Manager for Adult Social Services Learning Disability Teams, who was Ms Owolabi's Line Manager from 2012 onwards;

Summary of Evidence

Witness 1 - Ms Hill

- 25. The panel heard from Ms Sydney Hill, Operations Manager for Adult Social Services at the Council. She referred to her 4 April 2019 witness statement and her involvement in the disciplinary investigation for the Council in 2016. She explained her understanding of the background and the circumstances in which Ms Owolabi retained and had involvement in the use of the bank card and the concerns that were raised by Person D after the death of Service User B. Ms Hill said that Ms Owolabi had raised some personal circumstances at the interviews but that she did not ask for, or fail to receive, additional support.
- 26. Ms Hill's witness statement refers to her interviews with Ms Owolabi on 19 July 2016 and 27 October 2016. Ms Owolabi was not able to recall and was not able to explain these withdrawals. Ms Hill found that Ms Owolabi had failed to record the retention of any bank card in the service users' case notes. She found that some withdrawals took place when Ms Owolabi was on annual leave, working from home and also at weekends. Ms Hill found no evidence that Ms Owolabi had reported her retention of any bank card or Person D's concerns, as she should have, to her line manager Ms Daniel. She also found that no risk assessment had been carried out in respect of the management of the service users' financial affairs.
- 27. Ms Hill was asked about Ms Owolabi's response to the allegations where she states her only option was to keep the card in her locked desk drawer. Ms Hill said that at the investigatory interviews Ms Owolabi explained that she had held the card continuously for several months. Ms Hill said that the primary focus should have been on securing the bank card safely, and that the card should not have been kept by Ms Owolabi under any circumstances.
- 28. Ms Owolabi's position was that Person D's concerns about the withdrawals was not a safeguarding issue. Ms Hill said this was discussed at the interview and Ms Owolabi appeared to recognise, after the event, that this was a safeguarding issue and that she should have raised it.
- 29. Ms Hill told the panel that Ms Owolabi said that she did not have the PIN for the card as she would arrange to meet Service User A to withdraw money from a cash machine

and Service User A would use her PIN. There was no Council policy on this matter as it was not envisaged that any social worker would ever be closely involved in service users' finances. Ms Hill understood that Service User A and/or Service User B may have given verbal consent to Ms Owolabi but there had been no formality or written agreement in the case records. Ms Hill said that there was concern about the service users' capacity and ability to give informed consent. She found no evidence in the case records that Ms Owolabi had considered that important issue.

30. Ms Hill said there had been much confusion during the investigation over how many cards had been issued and were being used, and she said it was possible that there may have been other cards. She said the arrangements Ms Owolabi had made were very unusual and were not part of a social worker's role.
31. Ms Hill was asked about Ms Owolabi's claim that the Council had denied her access to supervision records during the internal investigation to avoid exposing her manager. Ms Hill said that she was not aware of that issue or any claim that access had been refused. Ms Hill said that in her role in the disciplinary investigation she was made aware of some personal circumstances that may have impacted on Ms Owolabi's work and this was raised by Ms Owolabi during the investigation.

Witness 2 – Keith Parcel

32. The panel heard from Keith Parcel and referred to his witness statement. He is employed by the Council as a fraud investigator. He explained that he investigates concerns about fraud and can where appropriate, refer matters to the police. He was instructed in respect of the allegations about Ms Owolabi using the joint bank card of Service User A and Service User B. He interviewed a number of people including Ms Hill, Ms Daniel and Person D and produced a report. He was advised not to interview Service User A. He then referred the matter to the police and the report was also used by the Council in Ms Owolabi's disciplinary hearing. He had not been able to interview Ms Owolabi who became unwell at the planned interview.
33. Mr Parcel explained that it was not clear how many bank cards had been involved but there seemed to be three. He understood that Ms Owolabi had held the bank cards and returned them to Person C at a safeguarding meeting on 9 February 2016. He said Ms Owolabi has always denied having the bank card PIN number. He considered his investigation had been incomplete, as it was overtaken by the police investigation.

Witness 3 – Person D

34. Person D is the sister-in-law of Service User A. The panel was referred to her witness statement. Person D said that in December 2015 Ms Owolabi had told her that Service User A and Service User B's finances were being dealt with by the Council and that

bank cards were in the Council's possession. Person D said that she felt reassured by this.

35. After the death of Service User B in January 2016 person D was supporting Service User A with the funeral arrangements. She attended the bank with Service User A on the 27 January 2016 and had sight of bank statements. She noticed large amounts of money being withdrawn from the accounts, often £200 and £400 on consecutive days, in total some £6000. Service User A told her that she had not been to some of the banks where money was shown to have been withdrawn. She had raised concerns about this with Ms Owolabi on the same day. Ms Owolabi told her that it would have been withdrawals that Service User A or Service User B had asked for and that any time money was withdrawn Service User A was with her. Person D left it with Ms Owolabi to raise the concerns with the Council.
36. Person D was referred to the bank statements within the exhibits. She confirmed that these were the statements provided to her by the bank and they were for Service User A and B's joint account.
37. Despite a follow up email, Person D heard nothing from Ms Owolabi about the concerns she has raised. When she later spoke with Ms Daniel she was told that the Council were not managing the finances for Service User A and Service User B and were not aware of the bank card use. Person D said she was bewildered by the circumstances.
38. Person D was clear that Ms Owolabi had not asked her to contact the bank and get the bank card suspended as Ms Owolabi had claimed. Person D did do so only after her subsequent conversation with Ms Daniel when she learned that the Council were not managing Service User A and Service User B's finances. Responding to the case notes made by Ms Owolabi, Person D said she did not offer to take over the finances of Service User A and Service User B as she thought the Council were doing so at that stage.
39. Person D stated she was not aware of Ms Owolabi's claim in her reflective statement that Service User A would only deal with Ms Owolabi. Person D said the previous social worker had a good relationship with Service User A and although there was conflict with some support staff, she had a good relationship with several of them and they would support her to go out shopping.
40. Person D became aware that the police became involved and she was interviewed by them. She understood that due to lack of evidence, no further action was taken.

Witness 4 – Ms Daniel

41. Ms Daniel is a service manager for the Council in the Adult Social Services Learning Disability Team. She was Ms Owolabi's line manager at the relevant time. She referred to her witness statement and told the panel that Ms Owolabi had been the social

worker working with Service Users A and B, who were both vulnerable but were considered to have the mental capacity to make their own decisions.

42. Ms Daniel told the panel that she was telephoned by Person D in January 2016 when she was on annual leave. Ms Daniel telephoned her back on her return on 26 February 2016. Person D had expressed concerns about cash withdrawals from Service User A and Service User B's joint bank account that she had reported to Ms Owolabi a month ago and had heard nothing. She told Ms Daniel that Service User A had told her that Ms Owolabi had the bank card.
43. Also, on 26 February 2016, Ms Daniel received a call from Ms Owolabi to say that she was sick. Ms Daniel asked her about the information received from Person D. Ms Owolabi told her that the bank card was kept with Person C in a safe at the sheltered accommodation where the Service Users lived. She discussed the matter again with Ms Owolabi on the 29 February 2016. She told Ms Daniel that she had held the card on three occasions when Person C was absent. Ms Daniel met Person C, on 2 March 2016, he told her that he had not seen the bank card for a long time and he thought that it had been held at the Council. He said that Ms Owolabi only handed it back to him after a safeguarding meeting at the end of January 2016 (*sic, which was later clarified as the safeguarding meeting on 09 February*). Ms Daniel said that as a result of discussions with Person C and Person D she was sure Ms Owolabi had retained the bank card.
44. Ms Daniel said that following Person D's concerns, Ms Daniel had arranged for a safeguarding referral to be made and Mr Parcel had also been instructed to conduct a fraud investigation. Ms Daniel stated that Ms Owolabi should have raised a safeguarding alert when Person D explained her concerns about the withdrawals. Ms Daniel said she had no knowledge of any arrangement which Service Users A and B had with Ms Owolabi about the bank card and said that such an arrangement would not be acceptable and there were other more appropriate options. The retention and use of the bank card was never raised by Ms Owolabi at her regular supervision meetings with Ms Daniel, or indeed at all.
45. Ms Daniel said that Ms Owolabi keeping the bank card was not appropriate and she was led to believe by her that the bank card was held in the safe at the sheltered accommodation by Person C. Ms Daniel said that no senior social worker would be expected to go to the bank with a service user other than in an emergency. Any concerns Ms Owolabi had about the service users' finances should have been raised with Ms Daniel and an audit trail should have been created. Any arrangements regarding the use of the bank card should also have been properly recorded by Ms Owolabi in the case records, but Ms Daniel found no such records.
46. Ms Daniel said that support workers also worked with Service User A and Ms Daniel said that they could have been used to assist with the service users' finances. There was also a Client Affairs department at the Council to manage financial issues and Ms

Owolabi, being an experienced senior social worker, would have known how to access that service.

47. Ms Daniel stated that a Mental Capacity Assessment was not completed for Service User A or Service User B in relation to the arrangements around their finances. She said that there was an assumption of capacity and only if there were concerns around their mental capacity in relation to their finances would such an assessment be conducted. Ms Daniel said that Ms Owolabi should, at least, have conducted and recorded a risk assessment and consent in respect of the use of the bank card. Ms Daniel did not find any evidence of a risk assessment being conducted, or the consent of the service users being recorded in the case notes.
48. Ms Daniel said that she had no idea what Ms Owolabi meant in her reflective statement about being refused access to records at the Council. A full investigation had been conducted and Ms Owolabi had been given the opportunity to respond. Ms Daniel said Ms Owolabi had been well supported during her time as Ms Owolabi's line manager and Ms Daniel had been well aware of various personal issues that Ms Owolabi was facing and often discussed them with her.

Closing Submissions

49. Ms Atkin closed the case. She reminded the panel that this case relates to events some five years ago and submitted that all the witnesses did their best to assist despite some confusion at times regarding dates and bank accounts. She referred to her Statement of Case which sets out the evidence in support of each particular of the allegation.
50. Ms Atkin submitted that Ms Owolabi's admissions together with the evidence from Person D and Ms Hill, and the notes from the investigatory interviews support particular 1. In respect of particular 2, Ms Atkin referred to the admissions by Ms Owolabi and the records exhibited which make clear that the case notes do not contain any entries regarding the bank card as alleged at 2 a), b) and c).
51. On particular 3, Ms Atkin submitted that the panel had heard from Ms Daniel who had no knowledge of the bank card held by Ms Owolabi until March 2016 and she had the notes made by her at the time. Ms Atkin submitted that particular 4 was also accepted by Ms Owolabi who had not raised a safeguarding alert, but should have done so. She said that Person D denied that Ms Owolabi had told her to contact the bank and stop the bank cards. Ms Atkin submitted that Person D's concerns were such that an alert was required and was subsequently raised.
52. In respect of particulars 5 and 6, Ms Atkin referred to the evidence of Ms Hill, who said that capacity and risk should have been considered in respect of the arrangement allegedly made between service users A, B and Ms Owolabi. Ms Daniel had echoed

those concerns and she had found no evidence of any risk assessment. Ms Owolabi admitted that she did not conduct a risk assessment or consider capacity. Ms Atkin submitted there was hearsay evidence of Person C heard from Ms Daniel that Ms Owolabi had withdrawn money for the service users. In addition, Ms Atkin said that Person D told the panel that service user A had told her that she was not making the withdrawals herself.

53. Ms Atkin referred to particular 7 and submitted that Ms Owolabi accepted that she ought not to have retained the bank card. She had not been consistent in her response to the issue and Ms Atkin submitted this amounted to a lack of integrity. She referred to the exhibits showing the use of a support worker to visit the bank. She submitted that the lack of any entry changing those arrangements when Ms Owolabi retained the bank card was conspicuous. She submitted that in the absence of another explanation, this was evidence that Ms Owolabi had deliberately failed over a period of some time, to record the change in arrangements or to make any reference to that arrangement.
54. Ms Atkin submitted that Ms Owolabi had misled Ms Daniel about her retention and involvement in the use of the bank card. Ms Atkin submitted that this indicated Ms Owolabi had been dishonest in avoiding providing true and accurate information to Ms Daniel at any point before the formal investigation began. Ms Atkin submitted that Ms Owolabi's lack of action in raising a safeguarding alert was also dishonest and this was clear from the varying explanations she had offered during the investigation and was designed to conceal her actions.
55. Ms Atkin referred the panel to the definition of misconduct in Roylance v GMC (no 2) [2000] 1 AC 311 and submitted that the facts alleged amount to misconduct. She submitted it was clear from the evidence of Ms Hill and Ms Daniel that no social worker should have retained the bank card.

Finding and reasons on facts

56. The panel accepted the advice of the legal adviser who reminded it that the onus of proof rests on Social Work England and that Ms Owolabi need prove nothing. Social Work England must prove its case on the civil standard of proof, the balance of probabilities. He reminded the panel that it was for it to reach a decision on the alleged dishonesty and lack of integrity, being findings of facts.
57. The legal adviser referred the panel to the Supreme Court guidance on dishonesty in Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UKSC 67 which states that it is principally an objective test and states:
- "In determining whether the Council has proved that the practitioner has acted dishonestly, (i) you must first decide subjectively the actual state of the Registrant's*

knowledge or belief as to the facts.... it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held.....(ii) Once his/her actual state of mind as to knowledge or belief as to the facts is established, the Panel should apply the (objective) standards of ordinary decent people.”

58. The panel was also referred to the guidance on integrity in SRA V Wingate Evans and Malins [2018] EWCA Civ 366. The court held that a professional disciplinary tribunal has specialist knowledge of the profession to which the registrant belongs and of the ethical standards of that profession. Accordingly such a body is well placed to identify want of integrity. The court stated that integrity is a broader concept than honesty. In professional codes of conduct, the term “*integrity*” is a useful shorthand to express the higher standards which society expects from professional persons and which the professions expect from their own members. The guidance from the court is that the underlying rationale is that the professions have a privileged and trusted role in society, and that in return they are required to live up to their own professional standards. The court pointed out that neither courts nor professional tribunals must set unrealistically high standards and the duty of integrity does not require professional people to be paragons of virtue.
59. The legal adviser reminded the panel to take care when assessing any hearsay evidence and to be mindful of the guidance in NMC v Ogbonna [2010] EWCA Civ 1216 and Thorneycroft v NMC [2014] EWHC 1565 (Admin). He referred the panel to the guidance on misconduct in the Roylance case and reminded it that misconduct was a matter for its own professional judgement.

Assessment of the Witnesses

60. The panel first assessed the four witnesses. The panel found Ms Hill was credible, professional, helpful, open and clear. She sought to assist the panel as best she could.
61. The panel found that the evidence of Mr Parcel was somewhat limited and noted that he accepted his report was not intended to be a comprehensive investigation of all the circumstances and was incomplete as it was overtaken by the police investigation. He was credible, open and sought to assist the panel as best he could.
62. The panel found that Person D was helpful, honest and credible. Despite some confusion in parts of the evidence she accepted that she did not have a complete view of the whole context. She was clearly and understandably concerned for her relative, Service User A, but she was measured and balanced in her evidence and sought to assist the panel.

63. The panel found that Ms Daniel sought to assist the panel. At times she was confused about dates. The panel found she was open and credible, and although at times somewhat unclear she was assisted by reference to documentary evidence and her notes. The panel was mindful these events occurred some five years ago and the panel largely relied on the written records that Ms Daniel made around the time of the events.

64. The panel, bearing in mind the balance of probabilities and that the onus of proof lay on Social Work England, next considered the allegation and looked at each particular in turn.

65. **Particular 1 Proved**

“Whilst registered as a Social Worker and working at Wandsworth Council between 5 March 2015 and 4 April 2016, you:

1. *Retained possession of a bank card belonging to Service User A and/or Service User B (“the bank card”) between mid-2015 and 9 February 2016.”*

66. The evidence from the statements made by Ms Owolabi in her interview with Ms Hill states that she accepts that she retained the bank card for a period of *“possibly over a five to six month period that I can recall. I do not have the specific dates”*. This is supported by the hearsay of service user A reported by Person D, and the hearsay evidence of Person C as reported by Ms Daniel and by Person C’s written account. The panel placed limited weight on that hearsay evidence.

67. Person C stated that the bank card for A and B’s joint account had been stored in an envelope in the safe in the accommodation office until mid-2015 when Ms Owolabi *“took the card/s to her department”*, and that *“[t]hese cards; were return [sic] to the Scheme Manager at the Multi-Agency safeguarding meeting in the Wandsworth Town Hall; on the: 09.02.2016”*. A case note entered by Ms Owolabi on 25 February 2016 confirms that she had attended a meeting with Person C on 9 February 2016

68. Ms Hill interviewed Ms Owolabi and Person C during her investigation. She states in her witness statement that Ms Owolabi confirmed in her written account, and at the interviews on 19 July 2016 and 27 October 2016, that she had retained possession of the bank card.

69. There are emails from Ms Owolabi confirming that she had been sent a copy of the investigatory interview notes with Ms Hill and Ms Owolabi did not challenge them or ask to alter that written record. Ms Owolabi states in her own written account about the bank card that *“It would be about August when I finally had it in my possession.”*

70. The panel found, on balance, weighing and assessing all the evidence, that the bank card was retained by Ms Owolabi between mid-2015 and 9 February 2016 and it found this particular proved.

71. **Particular 2 a), b) & c) Proved**

“2. Did not make any, or any adequate record of:

- a. the fact that you had retained the bank card and/or your reasons for doing so;*
- b. whether or not you had agreement/consent from Service User A and/or Service User B to retain the bank card;*
- c. each time you were present when money was withdrawn using the bank card and/or the reason(s) for the withdrawal.”*

72. Ms Hill and Ms Daniel both confirmed in their evidence that there were no records of the matters alleged in a, b, or c. Ms Hill stated that any significant activity involving a service user should be recorded, as well as key decisions. This was also required by the Council’s own policy on case recording.

73. The lack of records was accepted by Ms Owolabi in her interview with Ms Hill. There were only two records in relation to Service User A and Service User B’s finances, but it is clear from the bank statements seen by the panel that many withdrawals were made and the records were not adequate.

74. The panel noted that it is not asked, and does not find, whether or not Ms Owolabi was *present* when money was withdrawn. It finds as a matter of fact that there were no records of such, that being what is alleged at sub-particular c. The panel found particulars 2 a, b and c proved.

75. **Particular 3 - Proved in part**

“3. In relation to your retention of the bank card and/or involvement in withdrawals being made from the account of Service Users A and B, you;

a) did not disclose this to your manager at any point between mid-2015 and 9 February 2016; and/or

b) provided false and/or misleading information to your manager about this on one or more occasions in or around February and/or March 2016, in that you;

i) suggested that Person C had responsibility for the bank card and did not mention that you had been in possession of it in the period between mid-2015 and 9 February 2016;

ii) suggested that you had only been in possession of the card on three occasions when Person C was away and/or had handed the bank card back to Person C in November.”

76. **Particular 3 a) Proved** - The evidence from Ms Daniel in her live and written evidence is that she received no information from Ms Owolabi about the retention of the card until after 9 February 2016. There is nothing in the supervision notes indicating Ms Daniel was told anything about any such arrangement until the discussion on 29 February 2016. The panel accepted her evidence and found particular 3 a) proved.
77. **Particular 3 b), i) Proved, misleading** - The evidence from Ms Daniel is that she spoke to Ms Owolabi regarding concerns raised by Person D on 26 February 2016. Ms Owolabi told her that the bank card was kept in a safe by Person C at the office in the sheltered accommodation.
78. In the notes made by Ms Daniel as part of the investigation in or around March 2016, she recorded an account of this discussion which states that Ms Owolabi informed her that: “[Person C] kept [service user A]’s bank card in the safe of the sheltered housing. That when he was going away on three separate occasions he left the card with [Ms Owolabi] so that she could support [A] to the bank. [Ms Owolabi] reports handing back the card to [Person C] in November”
79. The evidence from Ms Daniel is that, at the time of their discussions on or around 26 and 29 February 2016, Ms Owolabi did not disclose to her that she retained the bank card. That the bank card had been retained by her was not admitted by Ms Owolabi until after the investigation had begun in July 2016.
80. The panel considered whether this was false or misleading. It considered Ms Owolabi’s explanation to Ms Daniel was seriously incomplete given that she had been retaining the bank card in her possession for some time. The information Ms Owolabi gave to her manager, Ms Daniel, was misleading as it failed to provide a full and complete picture of the circumstances at the time. The panel concluded on balance that this was misleading rather than false.
81. **Particular 3 b) ii) Proved, false and misleading**
82. The panel has found particular 1 proved and has found that Ms Owolabi stated to Mr Hill after the investigation began, that she had the bank card “*possibly over a five to six month period that I can recall. I do not have the specific dates*”.
83. In light of its findings in respect of the period of retention of the bank card by Ms Owolabi, the panel concluded that it was false and misleading of her to tell Ms Daniel in February 2016 that she had only been in possession of the card on three occasions when Person C had been away, and that she had handed the bank card back to Person C in November 2015.
84. Ms Owolabi, given her later statements at interview during the investigations in July 2016 and October 2016, knew that her position about the bank card was false when she discussed matters with Ms Daniel in February 2016. The panel found this particular proved.

85. Particular 4 Proved

“4. Did not raise a safeguarding alert regarding potential financial abuse of Service User A and/or Service User B following concerns being raised with you by Person D on or around 27 January 2016, about withdrawals that had been made from a joint bank account belonging to Service Users A and B.”

86. Ms Owolabi admits this particular in her statement from her solicitors and this is supported by the absence of the records and by the written statement of Person D who raised the concerns with Ms Owolabi. The panel found this proved.

87. Particular 5 a) proved; 5 b) not proved

“5. Did not complete and/or record a Mental Capacity Assessment on Service User A and / or Service User B:

a) before retaining the Bank Card and/or

b) before making withdrawals on their behalf;”

88. The evidence from Ms Daniel, Ms Hill and the lack of documentation are clear that Ms Owolabi did not complete a Mental Capacity Assessment. She also admits that in her written response submitted by her solicitors. Whilst capacity is presumed unless there is a basis for conducting such an assessment, as a matter of fact the assessment was not completed before Ms Owolabi retained the bank card. The panel found 5 a) proved.

89. In respect of 5 b), the panel considered the position as alleged - *“...before making withdrawals on their behalf”*. There is no discrete allegation, and the panel have not been asked to find as a matter of fact, that there were withdrawals made by Ms Owolabi on behalf of service users A and/or B. There is, accordingly, no such finding. Sub-particular 5 b) appears to be alleged as drafted on the assumption that such a factual finding has been made. In the absence of that finding the panel found 5 b) not proved.

90. Particular 6 a) proved; 6 b) not proved

“6. Did not complete and/or record a risk assessment:

a. before retaining the Bank Card and / or

b. making withdrawals on Service User A and / or Service User B’s behalf.”

91. The evidence from Ms Daniel, Ms Hill and the lack of documentation indicates that Ms Owolabi did not complete or record a risk assessment. She also admits that in her written response submitted by her solicitors. Ms Owolabi admits there was no risk assessment, and it was not completed before she retained the bank card. The panel found 6 a) proved.

92. In respect of 6 b) the panel again considered the position on *“making withdrawals on their behalf”*. For the same reasons as stated above in relation to 5 b), the panel found 6 b) not proved.

93. **Particular 7 a) Proved**

“7. Your actions at:

a) paragraph 1 lacked integrity, in that you retained the bank card over a prolonged period despite knowing that it was not appropriate for you to do so;”

94. The panel was mindful of the legal advice as to integrity and of its earlier findings. The panel has found that Ms Owolabi retained the bank card over a prolonged period of time. It has found Ms Owolabi did not conduct a risk assessment and she did not record the arrangements for the bank card in the service users’ case records, nor did she disclose any of this to her line manager, Ms Daniel.

95. Ms Daniel and Ms Hill both stated in their live evidence that it was not appropriate for any social worker to retain a bank card and to be involved in the finances of a service user in this manner. They both stated that any key decisions and arrangements must be fully recorded, risk assessed and an *“audit trail”* created. Ms Owolabi also failed to disclose the arrangements over a prolonged period of time and misled her manager.

96. Ms Owolabi was a senior, experienced social worker. She would have been aware that it was not appropriate to retain a service user’s bank card as she did. The panel concluded that her actions at particular 1 were not appropriate and fell far short of the professional and ethical standards which the public expects from a social worker. Her conduct in this regard also falls well short of the standards that the profession rightly expects from its own members, as is clear from the evidence of her fellow social workers, Ms Hill and Ms Daniel.

97. The panel concluded that Ms Owolabi lacked integrity in respect of her conduct found proved at particular 1.

98. **Particular 7 b) Proved in part – Finding at 3 a) dishonest**

“7. Your actions at:

b) paragraph 2 and/or 3a were dishonest, in that you deliberately failed to record and/or disclose information relating to your possession and/or use relating to the bank card as you knew that the arrangements you had made were inappropriate;”

99. The panel considered the legal advice and reference to the case of Ivey in relation to dishonesty. It considered all the evidence, Ms Owolabi’s knowledge and considered the facts objectively.

100. The panel considered its finding at particular 2 in respect of failing to record information. The panel considered Ms Owolabi's explanation when interviewed by Ms Hill on 19 July 2016 that her records were inadequate as she was under pressure due to her caseload, supporting a new social worker and having health issues. Also, concerns had been raised about Ms Owolabi's poor records previously. The panel, viewing matters objectively, did not conclude that this failure in record keeping was deliberate to conceal her actions and therefore concluded that they were not dishonest.
101. The panel next considered its finding at particular 3 a). It has found that Ms Owolabi had not told Ms Daniel that she had been holding the bank card for several months and anything about her involvement in withdrawals from Service User A and B's account when she was asked in February 2016 by Ms Daniel. Ms Daniel said she knew nothing about the prolonged retention of the card until later disclosure by Ms Owolabi, after the investigation had begun. It has found that Ms Owolabi did not disclose this information to Ms Daniel at any point between mid-2015 and 9 February 2016.
102. Ms Owolabi only disclosed at the investigation interview with Ms Hill on 19 July 2016 that she had retained the bank card and been involved in withdrawals for a period of time, despite having done so since mid-2015. The panel considered Ms Owolabi's knowledge of matters and it viewed the facts objectively. It concluded that an ordinary, decent member of the public would consider that the failure to disclose the true position in relation to the bank card to Ms Daniel at any point between mid-2015 and 9 February 2016 was deliberate and it was dishonest, being designed to conceal Ms Owolabi's actions and to conceal and avoid scrutiny of conduct that Ms Owolabi knew was inappropriate.
103. **Particular 7 c) Proved**
- "7. Your actions at:*
- c) paragraph 3b were dishonest, in that you knowingly provided one or more accounts to your manager which you knew were false and/or misleading;"*
104. The panel has found that 3 b) i) was misleading and 3 b) ii) was misleading and false. The panel was mindful of its findings as to Ms Owolabi's state of knowledge from mid-2015 about the bank card. It has found that she misled her manager and provided both false and misleading information.
105. The panel concluded that an ordinary and decent member of the public would find Ms Owolabi's conduct in providing false and misleading information to her manager, Ms Daniel, was deliberately designed to conceal her inappropriate retention of the bank card and was dishonest. The panel found that Ms Owolabi's conduct in

this regard was a deliberate attempt to deflect attention and minimise and undermine the concerns properly raised by Person D, and was dishonest.

106. **Particular 7 d) Proved**

“7. Your actions at:

d) paragraph 4 were dishonest, in that you failed to raise a safeguarding alert in an attempt to conceal that you had retained and/or been involved in the use of the bank card.”

107. Ms Owolabi admits that she failed to raise the safeguarding alert. In all the circumstances and given the findings made, the panel decided that objectively viewed this failure to take action was deliberate. It found that Ms Owolabi took no action to raise a safeguarding alert in order to conceal her retention of the bank card and involvement in withdrawals. The concerns raised by Person D were serious and the evidence of Ms Daniel was that Ms Owolabi sought to minimise Person D’s concerns. The panel decided this was a deliberate attempt to deflect attention and avoid scrutiny of the service users’ finances and it was dishonest.

Finding and reasons on grounds

108. The panel was mindful of the guidance in the Roylance case. Exercising its professional judgment it found that particulars 1, 2, 3, 4, 6a) and 7 all amount to serious departures from the standards expected of a social worker. The conduct found proved fell well below what was proper in the circumstances and amounts to misconduct. They involve an abuse of trust of both service users and colleagues. The findings involve premeditated and deliberate conduct designed to conceal inappropriate, reckless and dishonest behaviour which placed vulnerable service users at risk.
109. The panel has also found a lack of integrity and significant elements of dishonesty in respect of particulars 3a), 3 b) and 4. These findings alone are serious and amount to misconduct.
110. The panel did not find in respect of particular 5 a) that the lack of a mental capacity assessment amounted to misconduct. There was no evidence that such an assessment was required at the time as Ms Daniel had stated that there was an assumption of capacity regarding both service users. Accordingly this finding is not serious enough to amount to misconduct.
111. Although Ms Atkin did not refer to the then applicable HCPC Standards of Conduct, Performance and Ethics at this stage, the panel found the following standards were breached, which supported its judgement that the relevant conduct was serious and amounted to misconduct:

Promote and protect the interests of service users and carers

1.4 You must make sure that you have consent from service users or other appropriate authority before you provide care, treatment or other services.

Communicate appropriately and effectively

2.6 You must share relevant information, where appropriate, with colleagues involved in the care, treatment or other services provided to a service user.

Manage Risk

6.1 You must take all reasonable steps to reduce the risk of harm to service users, carers and colleagues as far as possible.

Report concerns about safety

7.3 You must take appropriate action if you have concerns about the safety or well-being of children or vulnerable adults.

7.6 You must acknowledge and act on concerns raised to you, investigating, escalating or dealing with those concerns where it is appropriate for you to do so.

Be honest and trustworthy

9.1 You must make sure that your conduct justifies the public's trust and confidence in you and your profession.

Keep records of your work

10.1 You must keep full, clear and accurate records for everyone you care for, treat, or provide other services to.

10.2 You must complete all records promptly and as soon as possible after providing care, treatment or other services.

Submissions on Impairment

112. The panel heard from Ms Atkin on impairment. She invited the panel to find Ms Owolabi's fitness to practice impaired given its findings on abuse of trust, lack of integrity and dishonesty. She also submitted that Ms Owolabi's conduct had been reckless and premeditated. She submitted that Ms Owolabi has shown very limited insight and limited acceptance of her failings and has not taken responsibility for her conduct. She submitted there was a risk of repetition given the seriousness of the misconduct and the period of time over which it occurred. Ms Atkin submitted that Ms Owolabi's admissions were limited. She submitted there was no evidence of the development of any insight or remediation.
113. Ms Atkin referred to the Social Work England Sanctions Guidance and to the relevant case law in Cohen v GMC [2008] EWHC 581 and CHRE v NMC & Grant [2011] EWHC 927(Admin). Ms Atkin submitted that it was also in the public interest to make a finding of current impairment in order to maintain public confidence in the profession and to uphold proper standards.

Finding and reasons on current impairment

114. On impairment of fitness to practise, the legal adviser referred the panel to the authoritative guidance in CHRE v NMC & Grant. He reminded the panel to consider the crucial issues of insight, remediation and the risk of repetition. He advised the panel that on impairment, there was no burden of proof and it was a matter for its own professional judgement. He stressed to the panel the central importance of protecting the public and the wider public interest.
115. The panel accepted the legal adviser's advice and exercised its own professional judgement. It considered the guidance in Grant and it was mindful of the central importance of protecting the public and the wider public interest, including public confidence in, and the reputation of, the profession and the regulator.
116. Honesty and trust are fundamental tenets at the heart of social work and it is essential that the public can have trust and confidence in social workers.
117. The panel has found that Ms Owolabi has been dishonest and that she abused the trust of service users and colleagues. The panel has found that she was dishonest over a prolonged period of time. It has found that she engaged in a premeditated and deliberate course of conduct designed to conceal and mislead, and that she was dishonest with her manager.
118. Ms Owolabi has not engaged in this hearing but she made representations and a reflective statement during the HCPC investigation. The panel has no evidence of Ms Owolabi's current circumstances. The panel has no recent reflection from Ms Owolabi and no evidence of remorse or remediation. There has been no apology. The panel

consider that Ms Owolabi admitted only to what she could not avoid, such as the lack of records and assessments. There is no evidence of any recognition by her of the seriousness of her conduct, or of its impact on service users, colleagues, employer or on public confidence in the profession. In these circumstances the panel cannot be assured that Ms Owolabi has insight, or has addressed or remediated her misconduct in any way.

119. With the guidance in Grant in mind, the panel found that Ms Owolabi has in the past, and is liable in the future, to act so as to bring the profession into disrepute, to place service users at unwarranted risk of harm, and that she has, and is liable in the future, to breach fundamental tenets of her profession, namely honesty and integrity.
120. The panel concluded that in all the circumstances, Ms Owolabi presents a high risk of repetition of her dishonest conduct in the future and that her fitness to practise is currently impaired.
121. The panel also had regard to the important public interest considerations. Given the misconduct and dishonesty it has found, the panel determined that it would undermine public trust and confidence in the profession, and in the regulatory process, if a finding of current impairment was not made in this case. Further, there is a need to declare and uphold proper standards of behaviour.
122. Accordingly, the panel finds that Ms Owolabi's fitness to practise is currently impaired on both the personal and public interest elements.

Submissions on Sanction

117. The panel heard from Ms Atkin. She submitted that a Removal Order was the appropriate sanction in this case. She highlighted that dishonesty undermined confidence in the profession and referred to paragraph 109 of the Social Work England Sanctions Guidance (the Guidance) which states that serious and persistent dishonesty is highly damaging to the profession.
118. Ms Atkin also referred the panel to paragraphs 102 and 103 of the Guidance which deals with abuse of trust. It states that a social worker holds a privileged positions of trust and that it is essential that the public can trust social workers implicitly.
119. Ms Atkin submitted that the lack of insight in this case is serious as Ms Owolabi involved herself in the financial management of Service User A and B. This compromised her position in managing financial abuse and this was compounded by Ms Owolabi failing to raise a safeguarding referral and providing false and misleading information to her manager, Ms Daniel. Ms Atkin referred to paragraph 106 of the Guidance and submitted that there was a real potential in this case for Ms Owolabi to cause harm to service users in the future.

Decision on sanction

120. The panel accepted the advice of the legal adviser. He advised it to consider Social Work England's Sanctions Guidance and to consider sanction in ascending order of severity, applying the least restrictive sanction necessary to protect the public. The panel must act proportionately, consider any aggravating and mitigating factors and be mindful of the public interest and that the primary purpose of sanction was protection of the public.
121. The panel was mindful of the email from Ms Owolabi to Social Work England on 9 January 2021. This includes reference to her health and refers to her being denied the chance to work. The panel concluded that this email, being the only recent communication from Ms Owolabi, continues to demonstrate a serious lack of insight. The email indicates a failure to take responsibility, persistence in blaming others for her conduct and a continuing failure to recognise the impact of her conduct on vulnerable service users, on colleagues and on the public interest including the reputation of the profession. She makes no mention of the service users, and any remorse expressed by her is in respect of the impact on herself. She also indicated in her recent email that she does not intend to seek employment in the future.
122. In considering the appropriate sanction, the panel had regard to its earlier findings of misconduct. It was mindful of the need to act proportionately and it carefully considered the Sanctions Guidance. It first considered the mitigating and aggravating features.
123. The panel found the following mitigating features:
- Admissions – these were partial and only where the evidence made admission unavoidable
 - Some apparent health and personal issues
 - No evidence of previous FTP concerns and previous good character
124. The aggravating features it identified were as follows:
- A pattern of sustained, premeditated, deliberate dishonesty
 - Concealing her inappropriate and dishonest conduct
 - Seeking to justify this conduct
 - Exposing Service User A and B to financial abuse
 - Seeking to blame others, namely Person C, Person D and Service User A
 - Abuse of trust of colleagues, vulnerable services users and the profession
 - A lack of evidence of insight, remorse, or apology

- A lack of evidence of any remediation
 - The risk of harm to vulnerable service users
 - She was a senior and experienced social worker
125. In view of the seriousness of the findings, to take no further action, give Advice or impose a Warning would not be appropriate. These orders would fail to address the seriousness of the misconduct found proved. They would not be proportionate nor would they be sufficient to protect the public, maintain confidence in the profession and the regulatory process, or to uphold and declare proper standards.
126. The panel next considered a Conditions of Practice Order. The Panel has no information about Ms Owolabi's current circumstances and there is nothing to suggest she is either willing or able to comply with conditions. In any event, the panel concluded that the misconduct and dishonesty found proved, and the high risk of repetition identified, cannot be appropriately and proportionately addressed by conditions of practice. Such an order would also fail to uphold public confidence in the profession or the regulator, and would not serve as a deterrent.
127. The panel next considered a Suspension Order. The panel has found that Ms Owolabi breached fundamental tenets of her profession. Her dishonest conduct was premeditated, reckless and deliberate and it was sustained over a period of time. Ms Owolabi has not shown insight or remorse and there is no evidence of remediation.
128. In all the circumstances of this case, including the gravity of the findings and the lack of evidence of insight and remediation, the panel determined that a Suspension Order would not be sufficient or proportionate. Suspension would fail to uphold and declare proper standards, would not act as a deterrent and would fail to maintain public confidence in the profession and the regulator.
129. The panel has determined that the dishonesty found was persistent and deliberate. It was sustained for some time. There is no evidence of recognition of the impact her conduct had on service users and the profession. The panel has found the misconduct is highly likely to be repeated in the future.
130. The panel concluded that, in light of the nature and gravity of the dishonesty and the lack of insight or any remediation, that nothing less than a Removal Order was the appropriate and proportionate order required to protect the public and the wider public interest.

Interim Order

123. In light of its findings on Sanction, the panel next considered an application by Ms Atkin for an Interim Suspension Order to cover the appeal period before the

Sanction becomes operative. The panel first considered proceeding in absence. The legal adviser reminded the panel of the guidance in GMC v Adeogba [2016] EWCA Civ 162. The panel was also mindful of the tests for an interim order, principally being the need to protect the public and the public interest.

124. The panel first determined there had been no material change in the circumstances and it decided to proceed in absence as it was satisfied that it remained fair and appropriate to do so.

125. The panel next considered whether to impose an interim order. It was mindful of its earlier findings and decided that it would be wholly incompatible with those earlier findings and the imposition of a Removal Order to conclude that an Interim Suspension Order was not necessary for the protection of the public or otherwise in the public interest for the appeal period.

126. Accordingly, the panel concluded that an Interim Suspension Order should be imposed on both public protection and public interest grounds. It determined that it is appropriate that the Interim Suspension Order be imposed for a period of 18 months to cover the appeal period. When the appeal period expires this Interim Order will come to an end unless there has been an application to appeal. If there is no appeal the Removal Order shall apply when the appeal period expires.

Right of Appeal

127. Under paragraph 16 (1) (a) of schedule 2, part 5 of the Social Workers Regulations 2018, the Social worker may appeal to the High Court against the decision of adjudicators:

- (i) to make an interim order, other than an interim order made at the same time as a final order under paragraph 11(1)(b),
- (ii) not to revoke or vary such an order,
- (iii) to make a final order.

128. Under paragraph 16 (2) schedule 2, part 5 of the Social Workers Regulations 2018 an appeal must be made within 28 days of the day on which the social worker is notified of the decision complained of.

129. Under regulation 9(4), part 3 (Registration of social workers) of the Social Workers Regulations 2018, this order can only be recorded on the register 28 days after the Social Worker was informed of the decision or, if the social worker appeals within 28 days, when that appeal is exhausted.

130. This notice is served in accordance with rules 44 and 45 of the Social Work England Fitness to Practice Rules 2019.

Review of final orders

131. Under paragraph 15 (2) and 15 (3) of schedule 2, part 4 of the Social Workers Regulations 2018:

- 15 (2) – The regulator may review a final order where new evidence relevant to the order has become available after the making of the order, or when requested to do so by the social worker.
- 15 (3) A request by the social worker under sub-paragraph (2) must be made within such period as the regulator determines in rules made under regulation 25(5), and a final order does not have effect until after the expiry of that period.

132. Under rule 16 (aa) of Social Work England’s fitness to practise rules, a registered social worker requesting a review of a final order under paragraph 15 of Schedule 2 must make the request within 28 days of the day on which they are notified of the order.