

Name: Joseph Essiful
Registration number: SW24677
Fitness to Practise
Final Hearing

Venue:	Remote
Date of Hearing :	5 June 2023 to 9 June 2023
Hearing Outcome:	Suspension Order (3 years)
Interim order:	Interim suspension order (12 months)

Introduction and attendees:

1. This is a hearing held under Part 5 of The Social Workers Regulations 2018.
2. Mr Essiful did not attend and was not represented.
3. Social Work England was represented by Gabriella Compton of counsel, instructed by Capsticks LLP.
4. The details of the panel of adjudicators (“the panel”) and those involved in the conduct and administration of the hearing are set out below:-

Adjudicators	Role
Catherine Audcent	Chair
Linda Norris	Social Work Adjudicator
Baljeet Basra	Lay Adjudicator

Tom Stoker	Hearings Officer
Camilla Read	Hearings Support Officer
Jane Lakin	Legal Adviser

Preliminary Matters

5. [PRIVATE]

Documentation

6. The Panel considered the following documentation ahead of the hearing:-
 - (i) Hearing timetable – 4 pages
 - (ii) Statement of Case – 7 pages
 - (iii) Exhibits – 45 pages
 - (iv) [PRIVATE]
 - (v) Social Worker’s Response – 172 pages
 - (vi) Service and Supplementary – 71 pages
7. During the course of the hearing additional material was provided in response to requests from the panel for additional clarification as detailed below: -
 - (i) A record of telephone calls made to Mr Essiful’s telephone number on the 5 June 2023 by a Social Work England officer- 1 page.
 - (ii) Redacted records of the hearings on 31 August 2021, 8 December 2021, 10 March 2023- 15 pages.

Service

8. The panel had careful regard to the documents contained in the Service and Supplementary bundle as follows: -
 - A copy of the Notice of Hearing and associated documentation dated 27 April 2023 addressed to Mr Essiful at his email address as it appears on the Social Work England Register;
 - An extract from the Social Work England Register detailing Mr Essiful's registered email address; and
 - A copy of a signed Statement of Service, on behalf of Social Work England, confirming that on 27 April 2023 the writer sent by email to Mr Essiful at his registered email address: Notice of Hearing and related documents.
9. The panel accepted the advice of the legal adviser in relation to service of notice. This included reference to Rules 14, 44 and 45 of the FTP Rules 2019 and *GMC v Adeogba [2016] EWCA Civ 162*.
10. Having had regard to Rules 14, 44 and 45 of the FTP Rules 2019 and all the information before it in relation to the service of notice, the panel was satisfied that notice of this hearing had been served on Mr Essiful in accordance with Rules 44 and 45 of the FTP Rules 2019.

Proceeding in the absence of the Social Worker

11. The panel heard from Ms Compton that Mr Essiful's medical conditions, as detailed in the medical information before the panel, were not such that he would be physically prevented from opening or responding to e-mails or understanding their contents; and that he would be aware of the hearing following the service of the Notice of Hearing and associated documentation.
12. Ms Compton submitted that Social Work England had put into operation the reasonable adjustments to the hearing process as recommended in the report of Dr Sammut dated 25 January 2023 in order to support Mr Essiful's participation in the hearing. This included a later start time, regular breaks, shorter hearing sessions and permitting Mr Essiful to reflect on and subsequently amend responses to questions.
13. Ms Compton submitted that Mr Essiful's non-attendance at previous hearings on 31 August 2021, 8 December 2021 and 10 March 2023 was indicative of a pattern of non- attendance at hearings which suggested that an adjournment of the hearing would not result in Mr Essiful's attendance at a subsequent hearing. The panel requested sight of the decision documents relating to these hearings and these were added to the hearing bundle and considered by the panel.
14. Ms Compton referred the panel to previous email communications from Mr Essiful as evidence that Mr Essiful knew how to communicate with Social Work England regarding his case and that he had not communicated any specific requests for an adjournment of this hearing.
15. The panel considered the medical evidence [PRIVATE].

16. The panel accepted the advice of the legal adviser in relation to the factors it should take into account when considering whether it was appropriate to proceed with the hearing in Mr Essiful's absence. This included reference to Rule 43 of the Rules and the cases of *R v Jones [2003] UKPC*; *General Medical Council v Adeogba [2016] EWCA Civ 162*. The panel also took into account the Social Work England guidance 'Guidance on Service of Notice and Proceeding in the Absence of the Social Worker' (December 2022) and the Public Sector Equality Duty as detailed in the Equality Act 2010. It had found proper notice of this hearing has been served and there was no application for an adjournment or postponement of the hearing by Mr Essiful.

17. The panel noted the following factors in reaching their decision: -

- (i) Detailed directions had been given at the case management hearing on 10 March 2023 in order to support Mr Essiful's participation within the hearing and these reasonable adjustments were evident in the arrangements for the final hearing.
- (ii) Previous panels sitting on 31 August 2021 and 8 December 21 had clearly stated that any application for postponement on medical grounds must be supported by evidence. The panel on 31 August 2021 had made the following direction "*any subsequent postponement application made by Mr Essiful must fully comply with the Social Work England published Postponements and Adjournments of Fitness to Practise hearings guidance last updated 5 December 2019. Mr Essiful is reminded that rule 31 permits a panel to draw adverse inferences arising from a failure to comply with a panel Direction.*"
- (iii) Mr Essiful had not provided current medical evidence ahead of the hearing and had not communicated with Social Work England since April 2023 in relation to the substantive arrangements for the hearing. The panel noted that Mr Essiful had twice requested and been granted an adjournment of the final hearing in 2021 and so the panel was reassured that he was aware of the procedure, and could have followed this, should he have wanted an adjournment of today's hearing. There are emails to Mr Essiful in the Service and Supplementary bundle dated 27 April 2023, 4 May 2023, 23 May 2023 and 1 June 23 which do not appear to have been responded to by Mr Essiful.
- (iv) Mr Essiful has a duty as a social worker to engage within the fitness to practise process and he has ceased to do so. Mr Essiful had not replied to telephone calls and messages from Social Work England on the 5 June 2023. The panel also noted the timing of the hearing would not have prevented attendance even if Mr Essiful is currently located in Ghana.
- (v) The overriding objective of Social Work England to protect the public is best supported by determining cases in a timely manner. The criminal conviction giving rise to this case was handed down in June 2019.
- (vi) [PRIVATE]

18. The panel decided that Mr Essiful has chosen to voluntarily absent himself. Having weighed the interests of Mr Essiful with those of Social Work England and the public interest in an expeditious disposal of the hearing, the panel determined it was fair and appropriate in the circumstances to proceed in his absence.

Allegation

On 24 June 2019 you were convicted at Guildford Crown Court on three (3) counts of dishonestly making a false representation to make gain for self/another or to cause loss to other/expose other to risk contrary to Section 2 of the Fraud Act 2006.

The matters at 1 above amount to the statutory ground of conviction in the United Kingdom for a criminal offence.

By reason of your convictions, your fitness to practise as a social worker is impaired.

Background

19. On 8 August 2019, the Health and Care Professions Council received a referral regarding Mr Essiful who had been convicted of three charges of fraud relating to his use of a social housing property for which he had a tenancy in his name.
20. On 6 June 2008 Mr Essiful became the tenant of a property owned by social housing provider Accent Group Ltd. In October 2016, Surrey Heath Borough Council commenced an investigation into Mr Essiful's social housing tenancy because it was suspected that he was not living at the property in accordance with the requirements of his tenancy agreement.
21. The Borough Council investigation concluded that, between June 2008 and July 2017, Mr Essiful had sub-let the property and Mr Essiful was therefore charged with three offences under Section 1 of the Fraud Act 2006.
22. Mr Essiful pleaded not guilty to all charges and following a jury trial he was convicted of all offences on 24 June 2019. On the 26 July 2019 he was sentenced to 2 years and 6 months imprisonment in respect of each offence to run concurrently.

Summary of Evidence

23. Ms Compton detailed the case against Mr Essiful with specific submissions and by reference to the totality of the evidence provided to the panel and detailed in paragraphs 6 and 7 above. The panel confirmed that it had read all the material which had been provided in the case including the material and documentation provided by Mr Essiful.
24. Ms Compton confirmed the proceedings centred upon the tenancy which Mr Essiful

held with social housing provider, Accent Group Ltd. Mr Essiful had been a tenant with the housing provider since May 1998 and in March 2008 he sought to exchange his tenancy for a property in Camberley Surrey. This application was successful, and the Camberley tenancy commenced on 6th June 2008.

25. In October 2016, Surrey Heath Borough Council commenced an investigation into the occupancy of the property in order to determine if this was Mr Essiful's only or principal place of residence as required by the terms of his tenancy with Accent Group Ltd and whether the property was being sub-let to another person/ persons. The property in question was a two-bedroom semi-detached house in Camberley.
26. The investigation concluded that between June 2008 and July 2017 Mr Essiful's principal place of residence had been in Southend-On-Sea. The evidence obtained by Surrey Heath Council included an analysis of the financial transactions of Mr Essiful which concluded that this *'corroborates the lifestyle and expenditure of someone living in the Essex Area.'* Utility accounts, car insurance and employment related documentation and NHS registration all utilised an address other than the property where the tenancy was held.
27. Mr Essiful was interviewed under caution in relation to the Camberley tenancy on 6 April 2017 and 23 August 2017 and declined to answers questions which were put to him. Mr Essiful submits that his 'no comment' response was on the basis of legal advice received.
28. Surrey Heath Council obtained witness evidence indicating that *"at any one time the council has up to 50 households in temporary accommodation waiting for suitable properties to become available. Consequently, social housing is an extremely valuable resource with demand in the Surrey Heath area far outweighing supply."* An estimate was provided that an illegally sub-let two-bedroom property may have a notional cost to the Council of £28,392 per annum and £293,000 for the duration of the period concerned. In his sentencing remarks His Honour Judge Black (hereinafter "HHJ Black") indicated that the financial loss, should also reflect the risk of financial loss.
29. Mr Essiful was charged with three offences in relation to matters detailed above: -

(1) STATEMENT OF OFFENCE

FRAUD, contrary to Section 1 of the Fraud Act 2006

PARTICULARS OF OFFENCE

JOSEPH ESSIFUL, on or around the 25th day of March 2008, dishonestly and intending thereby to make a gain for himself or another or to cause loss to another or to expose another to a risk of loss, made a false representation in an application for permission to exchange social housing properties [Exhibit MC/8], namely by representing that he intended to occupy [PRIVATE] 5 Paschal Road, Camberley, Surrey GU15 4LG [END PRIVATE] as his only or principal home, which was and which he knew was or might be untrue or misleading in breach of Section 2 of the Fraud Act 2006.

(2) STATEMENT OF OFFENCE

FRAUD, contrary to Section 1 of the Fraud Act 2006

PARTICULARS OF OFFENCE

JOSEPH ESSIFUL, on or around the 6th day of June 2008, dishonestly and intending thereby to make a gain for himself or another or to cause loss to another or to expose another to a risk of loss, made a false representation in a Deed of Assignment [Exhibit MC/12], namely by representing that he would observe the terms and conditions of the Tenancy Agreement for [PRIVATE] 5 Paschal Road, Camberley, Surrey GU15 4LG [END PRIVATE] whereas (i) he did not intend to use the said premises for residential purposes as his only or principal home; and/or (ii) he intended to sublet the said premises to another, which was and which he knew was or might be untrue or misleading

(3) STATEMENT OF OFFENCE

FRAUD, contrary to Section 1 of the Fraud Act 2006

PARTICULARS OF OFFENCE

JOSEPH ESSIFUL, between the 7th day of June 2008 and the 23rd day of July 2017, dishonestly and intending thereby to make a gain for himself or another or to cause loss to another or to expose another to a risk of loss, made a false representation to Accent Peerless Housing Limited, namely by representing that he was observing the terms and conditions of the Tenancy Agreement for [PRIVATE] 5 Paschal Road, Camberley, Surrey GU15 4LG [END PRIVATE] [Exhibit MC/13] whereas (i) he did not use the said premises for residential purposes as his only or principal home; and/or (ii) he sublet the said premises to another, which was and which he knew was or might be untrue or misleading in breach of Section 2 of the Fraud Act 2006 in breach of Section 2 of the Fraud Act 2006.

30. Ms Compton referred the panel to the certificate of conviction dated 21 February 2020, signed by an Officer of the Court which records that Mr Essiful was tried and convicted of the above offences on 24 June 2019. The certificate further confirms that Mr Essiful received a custodial sentence of 2 years and 6 months in relation to these offences.
31. Ms Compton referred the panel to the transcript of the sentencing hearing before HHJ Black which provides an overview of the evidence which was heard by the Jury in the trial. In his sentencing remarks HHJ Black records that an officer of Accent Housing had conducted a visit to the property on 3 May 2011 and had found it to have the appearance of not being "*regularly occupied*" and that the property appeared to be "*staged*" to try and give the appearance of it being occupied as a primary residence. HHJ Black records that this visit prompted Mr Essiful to take steps to try and show that he was living at the address such as joining the electoral register with this address and notifying his employers that this was now his correspondence address. HHJ Black subsequently identified this as an aggravating factor to the offence, along with the impact on the community of being deprived of this housing stock.

32. HHJ Black records in his sentencing remarks that *"It's clear then that throughout the period June 2008 to July 2017 you were – even though you said you were, you were not observing and performing the terms of the tenancy [PRIVATE] in relation to that property being your only or principal home."* HHJ Black further states *"I take the view that this was fraudulent activity conducted over a sustained period and that there was some planning, albeit not necessarily significant planning, to lay a trail intended to show to Accent Housing that you were living at [PRIVATE] as your main residence. I therefore take the view that your culpability was high."* The mitigating factor taken into consideration by HHJ Black are recorded as follows *"Clearly you have no previous convictions. I have a number of references for you, suggesting you are of good character, one is of an exemplary good character given what you have done over the years in relation to your work with disadvantaged and disabled children."*
33. Ms Compton outlined the position of Mr Essiful in relation to the offences and confirmed that Mr Essiful had provided 171 pages of material which was contained within the social work response section of the bundle along with emails and supplementary correspondence which appears within the service bundle.
- (i) He accepts that the conviction has been made as detailed above and that he is the person identified in the statement of conviction.
 - (ii) He states that the conviction has been wrongly made for several reasons including poor legal representation during the trial and the fact that key material relating to his proposed use of another property he owned as supported lodgings was not presented to the court.
 - (iii) He wanted to appeal his criminal conviction but could not afford the legal costs required to do this. He has approached the Criminal Cases Review Commission regarding his conviction.
 - (iv) [PRIVATE]
 - (v) He arranged for documentation to be sent to the address in Essex as he was most likely to be staying there during the week in order to support his dependent relative.
 - (vi) Most purchases and expenditure were in a different area to his tenancy due to his working arrangements and the availability of staff discounts within Essex.
 - (vii) [PRIVATE]

Findings – Facts.

34. The panel accepted the advice of the legal advisor including the following: -

- (i) The statutory grounds of fitness to practise concerns are contained in Regulation 25(2) of the Social Work Regulations 2018. Regulation 25(2) (c) confirms this includes ‘a conviction or caution in the United Kingdom for a criminal offence.’
- (ii) Rule 35 of the Fitness to Practice Rules 2019 (as amended) confirms that where a registered social worker has been convicted of a criminal offence:
 - (i) a copy of the certificate or memorandum of conviction, certified by a competent officer of a Court in the United Kingdom or, in Scotland, an extract conviction, shall be conclusive proof of the conviction.
 - (ii) the findings of fact upon which the conviction is based shall be admissible as proof of those facts.
- (iii) The transcript of the sentencing judgment by HHJ Black details those facts upon which the conviction and sentenced were based. This judgment was delivered by the presiding criminal judge following a contested criminal hearing before a jury where Mr Essiful was present, legally represented and contributing to his representation before the court.
- (iv) Mr Essiful accepts that the conviction was made and that he is the person identified within the certificate of conviction.
- (v) The burden of proof, which is the civil standard, rests with Social Work England. It is Social Work England who have brought this case and it is for them to satisfy the panel, that the facts in the allegation have been proved. There is no burden on Mr Essiful to prove or disprove anything.

35. The panel chair confirmed that notwithstanding Mr Essiful’s absence from the hearing the panel members had considered very carefully the material which he had provided. They had noted the information which he had provided including the documentation related to his supported lodgings application for his property in Essex.

36. The panel found the allegation to be proven, namely that Mr Essiful had been convicted of the three charges as detailed at paragraph 7 above. The panel noted that Mr Essiful does not dispute that this is the case and does not dispute that he is the person named in the certificate of sentencing. The statutory provisions confirm that that the certificate of conviction is “*conclusive proof of the conviction*” and the panel found as such in this case.

37. Whilst the panel noted that Mr Essiful considers that he has been wrongly convicted there was no evidence before the panel of a successful appeal having taken place and there was no evidence to suggest that the conviction of 24 June 2019 had been quashed. The panel noted that nearly four years had elapsed since the date of the conviction and there was no evidence to demonstrate that an appeal against conviction had been commenced.

38. In relation to the factual basis of the conviction the panel found that the transcript of the sentencing hearing provided an accurate account of the evidence which had been heard and determined by the Court of that occasion. The transcript provided a contemporaneous account of HHJ Black’s

assessment of the evidence which had been heard in the case. The assessment drew upon both the evidence provided from the Surrey Heath investigation and also the matters put forward by Mr Essiful in his defence. The transcript provided analysis of both the aggravating and mitigating factors considered when determining the appropriate sentence.

39. The panel noted from the material provided by Mr Essiful that he accepts many of the factual elements which led to the conviction but considers that the interpretation of these by the Housing Association, Council, Jury and Judge is incorrect. Mr Essiful accepts that he spent the majority of his week at a different address to the one detailed in his tenancy agreement, he accepts that the majority of his daily living expenditure was done in a different area to where his tenancy was and that his address for key documentation (insurance etc) was not the address of his tenancy. He accepts that he received a sum of money from a person living in the tenancy property which was almost the same amount as the rental cost paid by him but disputes the basis of this payment.
40. The panel notes that a criminal trial took place where Mr Essiful was legally represented and engaged in his defence. His interpretation of the key facts detailed above was put before the court and were subject to the litigation process. Mr Essiful was found guilty of the charges. The panel finds that the factual basis of the conviction is as detailed in the transcript of HHJ Black dated 26 July 2019.

Impairment

41. Ms Compton submitted that a finding of current impairment should be made in relation to Mr Essiful. She acknowledged that the matters giving rise to the fitness to practise hearing had occurred outside of Mr Essiful's professional practice but none the less impacted upon it. Ms Compton referred the panel to the prevailing professional standards at the time of the conviction and in particular to HCPC Standards of Conduct, Performance and Ethics (2016), standard 9.1 as follows:-

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

42. Ms Compton submitted that the convictions for fraud were offences of dishonesty and thereby breached the fundamental tenants of social work practice being trustworthiness and honesty. She indicated there was a lack of insight and remediation and that whilst Mr Essiful accepted the fact of his criminal convictions, he did not accept they were merited.
43. Ms Compton submitted that Mr Essiful's attempts at remediation comprised research into housing law which led him to be further of the view that his convictions were unjustified. This provided a poor foundation for remediation, reflection and insight. Ms Compton submitted that the panel did not have before it any evidence from Mr Essiful which supported any form of successful remediation.
44. Ms Compton submitted that Mr Essiful's fitness to practise was currently impaired in respect of both public protection and public interest.
45. The panel accepted the advice of the legal adviser that there is no burden or standard of proof when it comes to the issue of impairment. It is a matter for the panel. The legal adviser also advised that in

relation to impairment, it is current impairment of fitness to practise that is important and that in the case of *CHRE v NMC & Paula Grant* [2011] EWHC 927 (Admin), the court confirmed that Dame Janet Smith, in her fifth Shipman report, provides a helpful approach to the determination of impairment because it involves a consideration of both the past and the future:

“Do our findings of fact in respect of the doctor’s misconduct...show that his/her fitness to practise is impaired in the sense that s/he:

a. has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or

b. has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or

c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or...

d. has in the past acted dishonestly and/or is liable to act dishonestly in the future.”

46. The legal adviser also advised the panel to have regard to the case of *Cohen v GMC* [2008] EWHC 581 (Admin) which confirmed that:-

“It must be highly relevant in determining if a doctor’s fitness to practise is impaired that; first his or her conduct which led to the charge is easily remedied, second that it has been remedied and third that it is highly unlikely to be repeated.”

47. The panel considered the Social Work England Impairment and Sanctions Guidance dated 19 December 2022. In accordance with this guidance the panel considered firstly the personal element of impairment and whether this was present in Mr Essiful’s case.

48. The evidence before the panel suggested that the conduct which led to the criminal conviction resulted in financial loss to the council as it removed a property from the housing stock which could have been used by one of the individuals or families who were requiring accommodation. The inability to use this property could potentially have increased the Council’s expenditure on accommodation costs.

49. The panel noted that the cost of the fraud was considered within both the criminal proceedings and within the connected Proceeds of Crime Act (hereinafter “POCA”) proceedings. Within the criminal proceedings HHJ Black assessed the case as falling within category 3 of the relevant sentencing guidelines with an intended or actual loss being between £20,000- £100,000 or risk of loss being between £100,000 or £500,000. The panel does not have before it the full details of the POCA proceedings but notes that Mr Essiful states that the figure was determined to be in the region of £93,000. He states that payments were made from the sale of a property. The panel has been provided with a completion statement for a property which indicates that Mr Essiful’s share of the equity in this property was £23,544.05 and that £15,175.03 was paid to discharge a charging order over his share. It is not clear from the completion statement if this relates to the POCA proceedings although Mr Essiful appears to suggest it does. The panel have noted that the POCA proceedings would mean that some element of financial remediation would have been imposed on Mr Essiful.

50. Whilst the panel considered that it was unlikely that Mr Essiful would commit the same fraudulent acts again, as he has experienced the custodial and financial consequences of this, they were concerned that fraud is an offence of dishonesty which is inherently difficult to remediate. The panel were also mindful of the duration of the fraudulent activity spanning a period between June 2008 and July 2017 and that the index offence was therefore repetitive in its nature. The panel also considered that the lack of insight shown in respect of the offence, including Mr Essiful's consistent stance that he ought not to have been convicted, increased the risk of repetition of similar dishonest behaviour.
51. The panel noted that Mr Essiful had no criminal convictions prior to receiving the custodial sentence in June 2019. The panel further noted that positive references had been provided for these proceedings in relation to his practice as a social worker prior to his conviction.
52. The panel considered that Mr Essiful showed very limited insight into his offending or the regulatory concerns arising from them. While Mr Essiful acknowledges the fact of his conviction, he appears to do so without acknowledging that it is his conduct which had resulted in the conviction and the consequential regulatory proceedings.
53. The conviction is dated 24 June 2019 and Mr Essiful refers to seeking to appeal this decision, but, four years later, there is no evidence to suggest that he has actively pursued this. Mr Essiful does not appear to have reflected on the Judge's sentencing remarks in relation to his culpability for the offences or that his defence in relation to the offences has been considered by a jury and rejected. Mr Essiful's stated intention to appeal does not in anyway diminish or invalidate the convictions.
54. Mr Essiful has engaged in elements of the fitness to practise process but has not attended at the final hearing and has not communicated his reasons for his non-attendance. The panel are aware that Mr Essiful has experienced some health problems but are not in receipt of any medical evidence which indicates that he would have been unable to reflect upon or take steps to remediate his conduct.
55. Mr Essiful has offered an apology for failing to be clearer with Accent Housing around his living arrangements. Inherent in this is a denial of the criminal acts of which he has been found guilty which suggests his insight is limited. He has reflected that he should have been clearer with Accent Housing or sought legal advice but does not acknowledge his responsibility for the offences. Similarly, Mr Essiful offers an apology for not notifying his employers of his conviction until he was imprisoned, indicating he was acting on legal advice. The apology does not indicate an acceptance of personal and professional responsibility for his actions or failure to act.
56. The convictions relate to offences of dishonesty and whilst the panel acknowledges that information has been received regarding Mr Essiful's good conduct whilst in prison and his engagement in rehabilitation courses, the panel has not been presented with evidence of current activities being undertaken which demonstrate responsibility, trustworthiness and honesty. The panel have noted the references provided by Mr Essiful. These are from social care professionals who have known Mr Essiful for over 20 years and are positive in relation to his social work role.
57. Mr Essiful continues to deny that he committed the offences for which he was convicted. Whilst he has acknowledged the fact that the Surrey property was not his primary residence, he maintains that he was justified in acting as he did in order to support his family. There was no evidence that this position had been the subject of reflection and consideration since the conviction. Further, there is

no evidence before the panel that Mr Essiful has reflected on the impact his conduct may have had on the reputation of the wider profession and how a member of the public may view it.

58. The panel considered the public element of impairment. They considered the three convictions for offences concerning dishonesty, which had received concurrent 30 month sentences, would undermine public confidence in the profession and would fail to maintain the professional standards expected of social workers, if a finding of impairment on public grounds was not made.
59. The panel therefore concluded that Mr Essiful's fitness to practise is impaired by reason of his conviction, and that such a finding is necessary to uphold the overarching objective of protecting the public and in the pursuit of the following objectives:
- a. to protect, promote and maintain the health, safety, and well-being of the public.
 - b. to promote and maintain public confidence in the profession; and
 - c. to promote and maintain proper professional standards of conduct for members of the profession.

Sanction

60. Ms Compton, on behalf of Social Work England, submitted that removal was the appropriate sanction. She referred the panel to the Impairment and Sanction Guidance December 2022 (hereinafter "the guidance") and, in particular, the passages dealing with cases of dishonesty. She submitted that this was a serious case of dishonesty in the form of three counts of fraud which were perpetrated over a ten year period in respect of which only limited insight had been shown, and that public protection and the public interest required a removal order.
61. Ms Compton referred the panel to paragraph 174 of the guidance which stated *"Concerns that raise questions of character (such as dishonesty) may be harder to remediate. This is because it is more difficult to produce objective evidence of reformed character. Evidence of professional competence cannot mitigate serious or persistent dishonesty. Dishonest conduct is highly damaging to public confidence in social work. Therefore, it is likely to warrant a finding of impairment and a more serious sanction of suspension or removal."* The panel's attention was also drawn to paragraph 149 of the guidance which states that removal may be an appropriate outcome in cases concerning *"dishonesty, especially where persistent and/or concealed"*. Ms Compton submitted that Mr Essiful's fraud was persistent, in that it spanned a ten-year period, and that there had been some degree of concealment, for example following the visit of the housing officer in 2011 when Mr Essiful sought to register himself on the electoral register at that address.
62. The panel was asked by Ms Compton to consider that Mr Essiful's fraud meant that public funds were diverted from their intended purpose of the provision of services. Paragraph 177 of the guidance specifically identified that such financial dishonesty is *"particularly serious."*
63. Ms Compton indicated that Mr Essiful's criminal convictions were not those contained in the list leading to an automatic removal but were none the less *"criminal convictions for serious offences"* as referenced in paragraph 149 of the guidance and thereby removal would be the appropriate disposal.

64. Ms Compton submitted that Mr Essiful had demonstrated a chronic lack of insight into his offending; accepting only that his offence exists rather than any culpability for this. She also submitted that the risk of reoffending was high due to him having been convicted in relation to three offences over a sustained period. She further submitted that the public perception of the offence required Mr Essiful to be removed from the register.
65. The Legal Adviser reminded the panel that the purpose of sanction was not to punish but to arrive at a proportionate outcome to the case, having regard to the need to protect the public and satisfy the public interest. She referred the panel to the Impairment and Sanctions Guidance, which set out a principled approach to sanction, and reminded the panel of the need to consider sanction in ascending order. Given Mr Essiful's absence from the hearing, his view in relation to sanction was noted; namely that he has expressed an aspiration to continue practising as a social worker in the future.
66. The panel first considered the aggravating circumstances of the case. The fraud had taken place over a ten year period, Ms Essiful had acted dishonestly when taking on and continuing the tenancy in question, representing that this was his primary place of residence. The panel had noted that when presented with an investigatory visit from the housing provider in 2011 he had not reflected on his misrepresentation and spoken honestly to the housing provider but rather sought to create more evidence that he was living at the property as his primary residence; when he now acknowledges this was not his perception. The panel viewed Mr Essiful's behaviour over a sustained period as being deceitful and impacting negatively on the community by reducing the available housing stock and services for the community. The panel noted the guidance which suggests that dishonesty by a social worker is a serious and unacceptable risk in terms of public protection and confidence in the profession as a whole. Whilst it is noted that this dishonesty incurred in Mr Essiful's private life the guidance is clear that "dishonesty is likely to threaten public confidence in the social work profession. This is the case both in professional practice and in the social worker's private life."
67. The panel considered that Mr Essiful had shown limited insight into his conviction which did not appear to have developed over the passage of time. Whilst he had offered apologies for certain acts (not informing the housing provider, not speaking more promptly to his employer) the panel could not see an apology to those impacted. Mr Essiful had not shown any appreciation of the impact which his conviction could have on the profession and public trust and confidence in the profession. The panel noted that Mr Essiful had not attended the final hearing and no explanation was provided for this, albeit medical evidence and information had been provided throughout the investigation which detailed [PRIVATE]. The panel noted that Mr Essiful had not pleaded guilty to the criminal offences and that a trial had therefore been necessitated.
68. In terms of mitigating circumstances, the panel noted that Mr Essiful had no previous findings made against him and no previous convictions. He had received positive testimonies from colleagues who knew him over a long period of time within these proceedings and an exemplary reference within the criminal proceedings relating to his work with disabled people and vulnerable children. The offences for which Mr Essiful had been convicted had occurred outside of his professional role and had not involved persons with whom he engaged in a professional capacity. The panel had noted that Mr Essiful had engaged positively with the rehabilitation courses whilst in prison. The panel noted that Mr Essiful had experienced some challenging domestic circumstances which it accepted provided the background to his decision making at the time of the offence, and that he had shown commitment to managing this situation. This was evident from the references provided to the process.

69. The panel noted that Mr Essiful had experienced some health issues during the course of the proceedings and had provided information in relation to these. Mr Essiful had at points engaged well with the regulatory process providing submissions, a large quantity of documentation and undertaking [PRIVATE]. The panel accepted that his medical conditions may have adversely impacted upon his ability to fully engage, at all times, with the regulatory process. It noted that reasonable adjustments had been arranged by a case management hearing, following receipt of medical evidence, to assist Mr Essiful in attending this final hearing.
70. In reaching its decision on impairment, the panel considered that it was unlikely that Mr Essiful would commit the same fraudulent acts again but it could not rule out a risk of repetition of similar behaviour due to the limited insight shown in respect of his conviction.
71. The panel considered sanction in ascending order.
72. The panel concluded that there were no exceptional circumstances which would justify taking no further action. Such a course would be wholly inappropriate given the serious matters that it was considering.
73. The panel also considered that advice or a warning would not reflect the seriousness of the concerns.
74. The panel next considered a conditions of practice order. The panel had regard to the guidance which stated that conditions were less likely to be appropriate in cases of character, attitudinal or behavioural failings and would almost certainly be insufficient in cases of sexual misconduct, dishonesty, and abuse of trust. The panel did not consider that this was a suitable case for conditions. It involved dishonesty and conditions of practice could not be formulated to address these failings. A conditions of practice order would not be sufficient to satisfy the public interest.
75. The panel next considered a suspension order. This order would protect the public while it was in force. The panel considered carefully whether given the aggravating circumstances of this case, a suspension order would not be sufficient to promote and maintain public confidence in the profession; and to promote and maintain proper professional standards of conduct for members of the profession. The panel felt that in order to achieve this objective the suspension order would need to be for the maximum period of three years. The panel considered that placing a suspension order at the very highest end of the tariff would be sufficient to protect the public, maintain confidence in the profession and maintain proper professional standards for social workers in England. The panel were mindful that a suspension of this duration was a very significant sanction and considered that this was the most proportionate sanction.
76. The panel went on to consider a removal order in order to assure themselves that this was not necessary in the circumstances of the case. After careful evaluation of the order the panel concluded that this would be a disproportionate sanction in all the circumstances of the case. The panel were of the view that a three-year suspension order sent a very strong message that such behaviour was not condoned in any way whilst also achieving the balance set out in the guidance in paragraph 141 of the guidance that *"It is in the public interest to support a trained and skilled social worker to return to practice (if this can be achieved safely)"*. The panel was mindful that by the time the

imposed suspension order is reviewed, seven years will have passed since Mr Essiful was convicted. It considers that if Mr Essiful were to demonstrate sufficient insight and evidence of remediation at the review, a reasonably informed member of the public would consider that the sanction of suspension had addressed Social Work England's overarching objective. The panel considered that in accordance with the guidance "*the case falls short of requiring removal from the register.*"

77. Whilst the panel acknowledged that it could not bind a subsequent panel it noted paragraph 145 of the guidance in relation to the evidence to be presented to the review meeting which would take place in accordance with the Social Work Regulations 2018 Schedule 2 paragraph 15. The panel considered that further evidence of insight in relation to the offences would be of great assistance, demonstrating that Mr Essiful understood the impact of his crime on the profession and the public perception of the profession. Evidence from Mr Essiful of his participation in activities, voluntary or paid, which demonstrated his honesty and integrity would also be of assistance. Evidence of undertaking training around current professional practice to ensure he was not de-skilled would also assist the review meeting.

Interim order

78. Ms Compton on behalf of Social Work England, applied for an interim suspension order to cover the appeal period and any period during which an appeal, if lodged, could be resolved. She referred the panel to the Social Worker Regulations 2018, Schedule 2 paragraphs 8 (6), 11 and 14 and submitted that the combined effect of those paragraphs was such as to enable the panel to revoke the existing interim order which was due to expire on and substitute a new interim order for 12 months. She submitted that this was a preferable course to leaving the existing interim order in place and later applying to the High Court, if necessary, for an extension .
79. Miss Compton submitted that the need for an interim order was apparent from the terms of the panel's decision and from the fact that the panel's substantive order would not come into effect until 28 days from notification of the decision or upon the resolution of any appeal from that decision.
80. The Legal Adviser reminded the panel of the need to be satisfied that any interim order was necessary for the protection of the public and referred the panel to those parts of the 2018 Regulations referred to by Miss Compton
81. The panel concluded that an interim order was necessary for the protection of the public, which included the wider public interest and that an interim suspension order for 12 months should be imposed. The need for an interim suspension order arose from the terms of the panel's findings and any other approach would be inconsistent with those findings. The panel considered that it was preferable to revoke the existing order and impose a new order in the light of its findings.
82. The panel therefore revoked the existing interim order, under paragraph 14 of Schedule 2 of the 2018 Regulations and imposed an interim suspension order for a period of 12 months under paragraph 11 (1) (b) of those Regulations. The panel concluded that a period of 12 months was sufficient to enable any appeal, if lodged to be resolved.

Right of appeal

83. Under Paragraph 16(1)(a) of Schedule 2 of the regulations, the social worker may appeal to the High Court against the decision of adjudicators:
- a. 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.
 - b. the decision of the regulator on review of an interim order, or a final order, other than a decision to revoke the order.
84. Under Paragraph 16(2) of Schedule 2 of the regulations an appeal must be filed before the end of the period of 28 days beginning with the day after the day on which the social worker is notified of the decision complained of.
85. Under Regulation 9(4) of the regulations this order may not be recorded until the expiry of the period within which an appeal against the order could be made, or where an appeal against the order has been made, before the appeal is withdrawn or otherwise finally disposed of.
86. This notice is served in accordance with Rules 44 and 45 of the Social Work England Fitness to Practice Rules 2019 (as amended).

Review of final orders:

87. Under Paragraph 15(1), 15(2) and 15(3) of Schedule 2 of the regulations:
- 15(1) The regulator must review a suspension order or a conditions of practice order, before its expiry
 - 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
88. Under Rule 16(aa) of the rules a 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.

The Professional Standards Authority:

89. Please note that in accordance with section 29 of the National Health Service Reform and Health Care Professions Act 2002, a final decision made by Social Work England's panel of adjudicators can

be referred by the Professional Standards Authority (“the PSA”) to the High Court. The PSA can refer this decision to the High Court if it considers that the decision is not sufficient for the protection of the public. Further information about PSA appeals can be found on their website at:

<https://www.professionalstandards.org.uk/what-we-do/our-work-with-regulators/decisions-about-practitioners>.