

**Nursing and Midwifery Council
Fitness to Practise Committee**

**Substantive Hearing
Monday 2 – Thursday 5 October 2023**

Virtual Hearing

Name of Registrant:	Elizabeth Makombe
NMC PIN	08H1395E
Part(s) of the register:	Registered Nurse - RNMH Mental Health Nurse - October 2008
Relevant Location:	Harrow
Type of case:	Misconduct
Panel members:	Anthony Mole (Chair, Lay member) Linda Tapson (Registrant member) Jane McLeod (Lay member)
Legal Assessor:	Trevor Jones
Hearings Coordinator:	Franchesca Nyame
Nursing and Midwifery Council:	Represented by Ben Edwards, Case Presenter
Mrs Makombe:	Present and supported by Mr Esowe
Facts proved by admission:	Charges 1, 2, 3, 4, 4.1 and 4.2
Fitness to practise:	Impaired
Sanction:	Striking-off order
Interim order:	Interim suspension order (18 months)

Decision and reasons on application for hearing to be held in private

At the outset of the hearing, Mr Edwards made an application for this hearing to be heard in private where any matters relating to your health or other personal issues are raised. He submitted that your case may refer to medical issues at the time of the incidents, and that it is in your interests to be able to fully present your case to the panel and for such matters to be heard in private. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

You attended the hearing supported by Mr Esowe. On your behalf, Mr Esowe indicated that he supported the application that any reference to your health or personal matters should be heard in private.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

Having heard that there will be reference to your health, the panel decided to go into private session as and when such private medical information is referenced.

Details of charge

That you, a registered nurse:

1. Between 25 May 2022 and 30 August 2022 withdrew cash from Patient A's bank account, for your or another's use, when you did not have permission to do so. **(proved by admission)**
2. Your actions at charge 1 above were dishonest in that you knew you were taken for yourself or another, money which belonged to another and which you were not entitled to take. **(proved by admission)**
3. On 1 September 2022, completed a Datix report falsely stating that Patient A's debit card had been lost. **(proved by admission)**
4. Your actions at charge 3 above were dishonest because:
 - 4.1 You knew the debit card had not been lost **(proved by admission)**
 - 4.2 You were attempting to conceal your use of the debit card at charge 1 above. **(proved by admission)**

AND in light of the above, your fitness to practise is impaired by reason of your misconduct.

Background

You were referred to the NMC on 8 September 2022 by your former employer Central and North West London NHS Foundation Trust (the Trust).

You admitted withdrawing money from the bank account of Patient A, a patient in your care, at Roxbourne Lodge (the Lodge). The Lodge is an inpatient mental health rehabilitation service at the Trust.

Patient A needed assistance with managing their finances as they lacked capacity to do so for themselves. You withdrew money from Patient A's bank account over the period 25 May 2022 to 30 August 2022 on multiple occasions, and your withdrawals amounted to £8650.

Your actions came to light when Patient A was getting ready to leave the Lodge to attend an activity consisting of shopping and going to a café. Staff went to retrieve Patient A's card from the safe, where it was usually kept. As their card could not be found it was reported missing at the bank and you completed a Datix report in which you recorded that the card was lost. You also requested a transaction statement from the bank which the unit manager had requested you to arrange on behalf of Patient A.

After the unit manager reviewed the transactions, they reported concerns to senior managers in the Trust. The bank contacted their fraud team as there were serious concerns about how much money had been withdrawn. It was noted Patient A had not left the unit during the period of withdrawals. Patient A's family were informed of the situation.

On 5 September 2022, you attended the Lodge with your partner and admitted to stealing and using the card yourself. You did not give any reason as to why you had taken the money and what it was used for.

You have paid the money back in full to Patient A. You have resigned from your employment at the Trust. An investigation was conducted into these concerns, but

you did not participate in the investigation. Given that you had already resigned, a disciplinary hearing was not held. A Police investigation was launched but was subsequently closed with no further action taken after it was confirmed that you had returned all of the money taken from Patient A's bank account.

Decision and reasons on facts

Mr Esowe informed the panel that you made full admissions to charges 1, 2, 3, 4, 4.1 and 4.2.

The panel therefore finds these charges proved in their entirety, by way of your admissions.

Mr Edwards informed the panel that the NMC intended to call one witness (Witness 1). Given your admissions, he submitted that it is no longer necessary, however, it may be that you or the panel have questions for the witness.

The panel heard live evidence from the following witness:

- Witness 1: Service Manager in the Goodall Division and Mental Health Rehabilitation with the Trust at the time of the allegations.

Witness 1 confirmed in oral evidence the content of her statement and the exhibits produced. Witness 1 stated that, prior to the incident involving Patient A's bank card, you were considered a good nurse, and, to the best of her knowledge, there had been no incidents reported regarding your practice or conduct. Witness 1 said that you were held in high regard and had good relationships with both patients and staff. Witness 1 stated that both her and her colleagues were shocked and surprised by your actions and agreed it was out of character.

The panel also heard oral evidence from you under oath. In response to questions from Mr Esowe, you confirmed that your reflective piece dated 3 October 2022 is a true reflection on the incident. You stated that Patient A had been in your care for four years, and that during that time you had access to their card and would often help them with shopping with no prior concerns. [PRIVATE].

Fitness to practise

Having found the facts of this case proved by way of your admissions, the panel moved on to consider whether the facts found proved amount to misconduct and, if so, whether your fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

The panel, in reaching its decision, recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage, and it therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, your fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

In coming to its decision, the panel had regard to the case of *Roylance v General Medical Council (No. 2)* [2000] 1 AC 311 which defines misconduct as a 'word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.'

Mr Edwards invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015)' (the Code) in making its decision.

Mr Edwards directed the panel to specific sections within the Code and identified where, in the NMC's view, your actions amounted to a breach of the Code which constituted misconduct:

'1 Treat people as individuals and uphold their dignity

To achieve this, you must:

- 1.1 *treat people with kindness, respect and compassion*
- 1.2 *make sure you deliver the fundamentals of care effectively*
- 1.5 *respect and uphold people's human rights*

4 Act in the best interests of people at all times

To achieve this, you must:

- 4.3 *keep to all relevant laws about mental capacity that apply in the country in which you are practising, and make sure that the rights and best interests of those who lack capacity are still at the centre of the decision-making process*

20 Uphold the reputation of your profession at all times

To achieve this, you must:

- 20.1 *keep to and uphold the standards and values set out in the Code*
- 20.2 *act with honesty and integrity at all times, treating people fairly...*
- 20.4 *keep to the laws of the country in which you are practising*
- 20.5 *treat people in a way that does not take advantage of their vulnerability or cause them upset or distress*
- 20.8 *act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to*

21 Uphold your position as a registered nurse, midwife or nursing associate

To achieve this, you must:

- 21.3 *act with honesty and integrity in any financial dealings you have with everyone you have a professional relationship with, including people in your care'*

Mr Edwards submitted that, with regard to section 1.1 of the Code, by taking money from Patient A, you failed to treat them with kindness or compassion and instead took advantage of their situation and your position of trust.

In relation to sections 1.2 and 1.5, Mr Edwards submitted that, whilst no concerns have been raised about your clinical practice, the panel could consider, in these circumstances, that you failed to care adequately for Patient A by taking money from them which you were not entitled to.

In relation to section 4.3 of the Code, Mr Edwards submitted that Patient A lacked capacity, particularly in respect of their finances, which is why you had access to their card. Given the expectations on you as a nurse caring for a vulnerable patient who lacked capacity, Mr Edwards stated that the panel could consider that you have failed to comply with this part of the Code.

Mr Edwards also submitted that you breached sections 20.1, 20.2, 20.4, 20.5, 20.8 and 21.3 of the Code. Given the nature of the actions carried out by you over a prolonged period, it is clear that you failed to uphold the standards and values set out in the Code, or act with honesty and integrity at all times as you have admitted to dishonestly filling out the Datix report in order to deceive your former employer. Further, albeit no Police action was taken, he also submitted that stealing money from anybody, especially a vulnerable patient, could be considered reprehensible conduct and certainly does not meet the expectations of the wider public with regard to the nursing profession.

Mr Edwards submitted that the facts found proved amount to serious misconduct as fellow practitioners along with members of the public would find your actions deplorable.

Submissions on impairment

Mr Edwards moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public

confidence in the profession and in the NMC as a regulatory body. This included reference to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin) and *Ronald Jack Cohen v General Medical Council* [2008] EWHC 581 (Admin).

Mr Edwards drew the panel's attention to the decision in *Grant* above and the stage tests the panel might wish to apply in considering the issues before it. He submitted that all four limbs of the *Grant* test (set out in full below in the panel's reasoning) were engaged in this case.

Mr Edwards submitted that, whilst there is no evidence of harm caused to Patient A before the panel today, given the nature of your actions, there was a potential for serious harm in terms of Patient A being caused emotional distress. He highlighted that you have accepted that you acted dishonestly, and stated that your taking Patient A's money and acting dishonestly brought the nursing profession into disrepute and breached one or more of the fundamental tenets of the profession.

With regard to public protection, Mr Edwards submitted that, where dishonesty has been admitted, it is difficult to demonstrate remediation, and the panel has been provided with no evidence to show any remedial action in respect of your dishonest behaviour. Moreover, he submitted that there is also no evidence before the panel to indicate that you would not act the same way in future. He stated that you repeated your actions over a period of several months which shows there is a serious risk of repetition. Mr Edwards said that the panel would have to consider your reflective piece which, in his submission, demonstrates some insight and a developing understanding of the seriousness and effects of your actions. However, he stated that, although there is some insight, this is not sufficient for the panel to determine that your fitness to practise is not currently impaired on public protection grounds.

Mr Edwards invited the panel to also make a finding of impairment on public interest grounds. Given that such a large sum of money was stolen from a vulnerable patient over a significant period of time, and your repeated dishonesty, members of the public would expect, where such facts have been found proved, for the NMC to

protect the public and to uphold proper professional standards. He added that, were the panel to not make a finding of impairment today, public confidence in the nursing profession and the NMC as a regulator would be severely undermined.

Mr Esowe said that you wish to apologise for your actions, and that you understand what you did was wrong, violated Patient A's trust as well as the trust of your colleagues and the wider public, and brought the NMC into disrepute. However, he submitted that you were honest from the beginning in admitting what you had done and have taken steps to address the underlying issue which have acted as mitigating circumstances [PRIVATE]. Mr Esowe added that you are very committed to your job and love what you do, reiterating that you have admitted to the charges and that your behaviour was out of character. He requested that the panel give you a second chance so as to let you start a new chapter.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and *General Medical Council v Meadow* [2007] QB 462 (Admin).

Decision and reasons on misconduct

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code.

The panel was of the view that your actions did fall significantly short of the standards expected of a registered nurse, and that your actions amounted to a breach of the Code. Specifically:

'1 Treat people as individuals and uphold their dignity

To achieve this, you must:

1.1 treat people with kindness, respect and compassion'

4 Act in the best interests of people at all times

To achieve this, you must:

4.3 keep to all relevant laws about mental capacity that apply in the country in which you are practising, and make sure that the rights and best interests of those who lack capacity are still at the centre of the decision-making process

20 Uphold the reputation of your profession at all times

To achieve this, you must:

20.1 keep to and uphold the standards and values set out in the Code

20.2 act with honesty and integrity at all times, treating people fairly...

20.4 keep to the laws of the country in which you are practising

20.5 treat people in a way that does not take advantage of their vulnerability or cause them upset or distress

20.8 act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to

21 Uphold your position as a registered nurse, midwife or nursing associate

To achieve this, you must:

21.3 act with honesty and integrity in any financial dealings you have with everyone you have a professional relationship with, including people in your care'

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that honesty and integrity are fundamental tenets of the profession, and that your dishonesty is a clear case of serious misconduct.

The panel had particular regard to NMC guidance FTP-3a '*Serious concerns which are more difficult to put right*' dated 1 July 2022. In relation to Charges 1 and 2, the panel considered the theft of Patient A's money demonstrated evidence of '*exploiting patients or abusing the position of a registered nurse, midwife or nursing associate for financial or personal gain*' and '*deliberately causing harm to patients*' as your actions were likely to have caused Patient A emotional and psychological harm.

Further, in regard to charges 3, 4, 4.1 and 4.2, the panel determined your falsification of the Datix to be evidence of you '*breaching the professional duty of candour to be open and honest when things go wrong, including covering up, falsifying records, obstructing, victimising or hindering a colleague or member of staff or patient who wants to raise a concern, encouraging others not to tell the truth, or otherwise contributing to a culture which suppresses openness about the safety of care*'.

As such, the panel found that your actions were serious and fell far below the conduct and standards expected of a nurse and amounted to serious misconduct.

Decision and reasons on impairment

The panel next went on to decide if, as a result of the misconduct, your fitness to practise is currently impaired.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* in reaching its decision. In paragraph 74, she said:

'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination 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.'*

The panel finds that Patient A was put at risk of financial, emotional and psychological harm as a result of your misconduct. Your misconduct was dishonest, breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Regarding insight, the panel took into consideration your reflective piece and determined that you are clearly remorseful and have some developing insight in to why you behaved in such a manner and the factors [PRIVATE] that led to this. [PRIVATE]. However, in your oral evidence, the panel noted that your level of insight was not as detailed as that contained in your reflective piece. The panel recognised that you were quite distressed by the proceedings, and that this may have had an impact. However, even allowing for this, the panel determined it was not satisfied that you sufficiently demonstrated insight into the impact of your actions on the patient, your colleagues and on the nursing profession as a whole. You also did not sufficiently explain how you would handle the situation differently in the future.

Furthermore, the panel noted that you did admit to stealing Patient A's money once you realised you may be discovered. It also noted your apology and your genuine remorse for your behaviour. However, it had little else to show you have taken remedial action in relation to honesty, integrity or the duty of candour. While the panel had sight of some training certificates, these did not relate to the charges. [PRIVATE]. The panel also noted that you did not have character references besides the evidence given by Witness 1.

For the above reasons, the panel was of the view that there is a risk of repetition given your repeated dishonesty and lack of remediation, and it determined that all four limbs of the *Grant* test were satisfied. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that a finding of impairment on public interest grounds is required as a fully informed and reasonable member of the public would be shocked if a registered nurse who admitted to stealing from a vulnerable patient were permitted to practise without restriction. The panel concluded that public confidence in the profession and the NMC as a regulator would be undermined if a finding of impairment were not made in this case. The panel therefore finds your fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired.

Sanction

The panel considered this case very carefully and decided to make a striking-off order. It directs the registrar to strike you off the register. The effect of this order is that the NMC register will show that you have been struck-off the register.

In reaching this decision, the panel had regard to the Sanctions Guidance (SG) published by the NMC and all the evidence that has been adduced in this case. The panel accepted the advice of the legal assessor.

Submissions on sanction

Mr Edwards informed the panel that the NMC seek the imposition of a striking-off order if it found your fitness to practise currently impaired.

Mr Edwards submitted that the aggravating factors in this case are that this was serious dishonesty in relation to your practice as a nurse, your actions were over a sustained period of time and not a one-off incident where you withdrew money over multiple transactions. In addition, you falsified the Datix report in an attempt to cover the fact that you had retained Patient A's card for your own use, Patient A was an extremely vulnerable patient, there was a personal financial gain, and the amount stolen is a large sum (£8650).

Mr Edwards raised the mitigating factors in your case which, in his submission, are that you made admissions albeit only once the investigation was in progress, you have shown remorse and paid back the money to Patient A, and [PRIVATE]. However, he invited the panel to approach this mitigating factor with caution as the panel has limited information before it regarding [PRIVATE].

Mr Edwards submitted that there remains a risk of repetition of the behaviour and therefore there is a risk to the public. He further submitted that your behaviour raised fundamental questions about your professionalism and a lesser sanction would not mark the public interest in this particular case.

Mr Esowe submitted that, if the panel were to take a “*sledgehammer approach*” and strike you off, it could have the consequence of making other nurses feel that there is no room to make mistakes. He said that you spent years learning and acquiring the skills used for the benefit of society. He acknowledged that on this occasion you acted dishonestly and should be punished. However, he highlighted that you had ample opportunity over the past 13 years to abuse other patients, but there were no concerns raised.

Mr Esowe further submitted that you should be held accountable but given an opportunity to practise and do what you love, for example by being put under restriction. He highlighted that you were sorry for your actions, and you had not used the money for personal gain and had paid it all back. He appealed to the panel to give you an opportunity to remain in nursing whilst accepting you made a serious error. [PRIVATE]. He stated that you had admitted your wrongdoing, and everyone deserves a second chance. He submitted that the public would understand that everyone makes mistakes.

Decision and reasons on sanction

Having found your fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel determined the following aggravating features:

- Serious dishonesty in relation to your practice as a nurse,
- Your actions were over an extended period of time,
- There was a pattern of misconduct in that your actions were repeated on 23 separate occasions,
- You attempted to cover up your dishonesty by falsifying a Datix report,

- Patient A was extremely vulnerable,
- You had a personal financial gain,
- The sum of money taken was large,
- You abused your position of trust,
- Your conduct put patients at risk of suffering harm.

The panel also determined the following mitigating features:

- You made early admissions,
- You apologised to Patient A and have shown genuine remorse,
- The sum of money taken was returned to Patient A,
- You show evidence of developing insight,
- [PRIVATE].

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case and the public protection issues identified. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and proportionate response. The panel was of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The misconduct identified in this case was not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on your registration would not adequately protect the public or address the public interest in this case.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour.*

The panel did consider a suspension order as it determined that temporary removal from the register would protect the public whilst the order was in place. It also accepted that a suspension order could give you the opportunity to further develop your insight and gather more detailed evidence to support your case. However, the panel determined that, the regulatory concerns raised fundamental questions about your professionalism. The panel noted that the charges admitted are of an extremely serious nature, concerning a lack of probity, honesty and trustworthiness. It determined that a suspension order would not satisfy the public interest, neither would it maintain public confidence in the profession and the NMC as a regulator.

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

The panel determined that while this episode of misconduct represented a single episode in a previously unblemished career, you abused the trust of an extremely vulnerable patient on 23 separate occasions. Further, you attempted to cover up your dishonesty by lying on a Datix form. Hence, the panel determined that this compounded your dishonesty.

The panel acknowledged that you show genuine remorse, that you have apologised and that you paid the money back. The panel took full account of all that has been said on your behalf and the information you provided. It noted your participation in these proceedings.

However, the panel determined that your actions were significant departures from the standards expected of a registered nurse, and are so serious in nature that your they are fundamentally incompatible with you remaining on the register.

The panel determined that the only sanction that would sufficiently protect the public and mark the public interest in this particular case is a strike-off order. In addition, the panel decided a strike-off order is the only sanction that will uphold professional standards and maintain public confidence in the profession and the NMC as a regulator. The panel acknowledged that a strike-off order will have a significant impact on you personally. However, the panel was mindful of its duty to prioritise public protection and address the high public interest concerns in this case.

The panel therefore direct the registrar to remove your name from the register.

Interim order

As a striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in your own interests until the striking-off sanction takes effect.

Submissions on interim order

The panel considered the submissions made by Mr Edwards that an interim suspension order should be made to cover the appeal period. He submitted that an interim order is necessary to protect the public and meet the public interest. He invited the panel to impose an interim suspension order for a period of 18 months to cover any appeal period.

Mr Esowe objected to the length of the interim order requested by Mr Edwards. He submitted that 18 months is too long given the time you have already spent under suspension. He suggested that the panel impose an interim suspension order for a period of six or 12 months as he is going to take legal advice and appeal as soon as he can.

The panel heard and accepted the advice of the legal assessor.

Decision and reasons on interim order

The panel was satisfied that an interim suspension order is necessary to protect the public and address the public interest. The panel had regard to the seriousness of the misconduct and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order. It considered that not to impose an interim suspension order would be inconsistent with its earlier findings.

The panel took account of Mr Esowe's submission as to the length of time concerning an interim order. However, due to the uncertainty as to the time it may take for this matter to be heard in the High Court, the panel made an interim suspension order for a period of 18 months.

If no appeal is made, then the interim suspension order will be replaced by the striking-off order 28 days after you are sent the decision of this hearing in writing.

This will be confirmed to you in writing.

That concludes this determination.