

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

**Substantive Hearing
Tuesday 9 May 2023 – 12 May 2023
Thursday 18 May 2023- 19 May 2023**

Virtual Hearing

Name of Registrant: Radhakrishnen Valydon

NMC PIN 90D0827E

Part(s) of the register: RN3: Mental health nurse, level 1 (28 June 1993)

Relevant Location: Hackney

Type of case: Misconduct

Panel members: Peter Fish (Chair, Lay member)
Beth Maryon (Registrant member)
Colin Sturgeon (Lay member)

Legal Assessor: Charles Parsley

Hearings Coordinator: Berivan Genc

Nursing and Midwifery Council: Represented by Rowena Wisniewska, Case
Presenter

Mr Valydon: Not present and not represented

Facts proved: All charges

Fitness to practise: Impaired

Sanction: **Striking-off order**

Interim order: **Interim Suspension Order (18 months)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mr Valydon was not in attendance. The panel noted that the evidence of the NMC in the proof of service bundle did not include the date of sending the Notice of Hearing. Ms Wisniewska, on behalf of the Nursing and Midwifery Council (NMC), subsequently provided a dated copy of the email under cover of which the Notice of Hearing was sent to Mr Valydon's registered email address by secure email on 15 March 2023.

Ms Wisniewska submitted that the NMC had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, dates and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mr Valydon's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

In the light of all of the information available, the panel was satisfied that Mr Valydon has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mr Valydon

The panel next considered whether it should proceed in the absence of Mr Valydon. It had regard to Rule 21 and heard the submissions of Ms Wisniewska who invited the panel to continue in the absence of Mr Valydon. She submitted that as the notice of hearing was validly served, the panel should proceed in Mr Valydon's absence and that he was aware of the commencement of the hearing.

Ms Wisniewska referred the panel to the Proceeding in Absence Bundle and submitted that this showed the notice of hearing was received by Mr Valydon via Egress on 16 March 2023 with his response stating:

“Dear all, I have received the notification. Thank you.”

Ms Wisniewska also referred the panel to Mr Valydon’s email to the NMC dated 5 May 2023 stating:

*“I am not in a fit state to attend any meetings
J [sic] will submit my response to the allegations
I will seek clarification from my solicitor where I go from this: option for me to ask for
a judicial review of the case”*

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised ‘*with the utmost care and caution*’ as referred to in the case of *R v Jones (Anthony William)* (No.2) [2002] UKHL 5.

The panel has decided to proceed in the absence of Mr Valydon. In reaching this decision, the panel has considered the submissions of Ms Wisniewska and the advice of the legal assessor. It had particular regard to the factors set out in the decision of *R v Jones and another* as supplemented by the guidance in *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mr Valydon;

- Mr Valydon has engaged with the NMC and has responded to the letters sent to him about this hearing;
- Mr Valydon has informed the NMC that he has received the Notice of Hearing;
- Whilst Mr Valydon has stated in his email that he is '*not in a fit state to attend any meetings*' he has not provided any supporting medical evidence.
- There is therefore no reason to suppose that adjourning would secure his attendance at some future date;
- There are three witnesses due to attend the hearing to give live evidence;
- Not proceeding may inconvenience the witnesses, their employers and the clients who need their professional services;
- There is a strong public interest in the expeditious disposal of the case; and
- Further delay may have an adverse effect on the ability of witnesses accurately to recall events.

There is some disadvantage to Mr Valydon in proceeding in his absence. Although the evidence upon which the NMC relies will have been sent to him at his registered email address, he has made no formal admissions to the allegations. He will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on his own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Mr Valydon's not attending in person or by a representative and not providing evidence or making submissions on his own behalf.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mr Valydon. The panel will draw no adverse inference from Mr Valydon's absence in its findings of fact.

Details of charge

That you, a registered nurse:

- 1) Between 1 November 2019 and 1 February 2020, on more than one occasion, used Patient A's bank card and/or bank account for your own personal use; **[PROVED]**
- 2) Your actions set out at charge 1 were dishonest as you knew that you did not have permission to use Patient A's bank card and/or bank account; **[PROVED]**
- 3) Breached professional boundaries in that you managed Patient A's personal finances when this was not permitted in your role as care coordinator; **[PROVED]**
- 4) Failed to adequately escalate safeguarding concerns in relation to Patient A by:
 - a) not conducting a patient capacity assessment and/or informing a manager that Patient A was unable to manage their finances; **[PROVED]**
 - b) not informing a manager that you had concerns about Patient A's mental state and/or that Patient A was at risk of suicide; **[PROVED]**

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

There were no admissions to the charges.

Background

At the time of the events in question, Mr Valydon was employed by South Hackney Recovery Community Mental Health Team as a registered nurse, in his role as a Mental Health Care Coordinator.

Mr Valydon was responsible for the care of around 25 patients with mental health conditions, which involved amongst other duties conducting care plan assessments and liaising with other care professionals. The concerns relate to his care of Patient A who had [PRIVATE]

It is alleged that Patient A's bank became concerned when they were informed by Patient A of unauthorised withdrawals from their account. It appeared that these withdrawals were used to pay for tickets for the Eurotunnel, EasyJet, Netflix and Xbox subscriptions, and payments for the Dartford Crossing. It is alleged that these could not have been for Patient A because Patient A himself did not own a car and he said that he had not renewed his passport for 26 years.

The bank made a safeguarding referral to the London Borough of Hackney, adult safeguarding on the 11 February 2020 and the East London Foundation Trust ('the Trust') and carried out an investigation.

It is alleged that Patient A was not able to manage their finances and that, having agreed to help Patient A, Mr Valydon misappropriated money and misused Patient A's accounts. In response to the concerns, Mr Valydon said that he had been lending money to Patient A and had an agreement to use Patient A's money in return. It is alleged that Mr Valydon admitted to the manager of the service that he had made an error of judgement and that he breached professional boundaries.

It is alleged that Patient A had not given permission for their bank account to be used by Mr Valydon or their bank card. Further, Mr Valydon had not previously raised concerns

with the Trust that Patient A couldn't manage their finances or that Patient A had asked him to manage the finances for them.

The Trust referred Mr Valydon to the NMC on the 3 July 2020 and following the Trust disciplinary process, he was dismissed.

In his Regulatory Concerns Response Form, Mr Valydon accepted concern 1 relating to dishonesty in that he spent the money belonging to Patient A without his permission. He also accepted concern 2 in relation to breach of professional boundaries. Mr Valydon accepted concern 4 relating to the failure of adequately escalating safeguarding concerns in relation to Patient A. Whilst Mr Valydon indicated by ticking on the form that he accepted these concerns, he also provided written commentary expanding on and qualifying his position in relation to them.

Whilst he accepted these concerns on the 29 July 2022, he has not to date, informed the NMC whether he admits or denies the four current charges, and he has not returned the Case Management Form.

Mr Valydon applied to the NMC on the 5 May 2023 for voluntary removal from the Register, which was refused.

Decision and reasons on application to admit hearsay evidence

The panel heard an application made by Ms Wisniewska under Rule 31(1) to allow the admission of all hearsay evidence contained in the written statements of all three witnesses on the basis that it is fair and relevant to do so.

Ms Wisniewska acknowledged Witness 1's witness statement is based heavily on hearsay evidence and the other two Witness statements contain hearsay to a lesser degree. Ms Wisniewska submitted that the relevant sections in Witness 1's witness statement which

would require admission are paragraphs 6, 8, 10, 11, 13, 14 and 15 and she requested that these paragraphs should be admitted in evidence.

She also submitted that although Witness 2's Witness statement does not contain hearsay evidence, the third exhibit to that Witness statement which is the Preliminary Investigation Report dated 14 February 2020, consists almost entirely of hearsay evidence. She requested that the hearsay contained in that report be admitted to evidence.

Ms Wisniewska submitted that Witness 3's Witness statement also contains hearsay, although to a lesser degree, and that the relevant paragraphs are 7, 8 and 9. She requested that these paragraphs be admitted to evidence.

She submitted that the panel will be aware of the health challenges of Patient A and that it has not been possible to obtain a Witness statement from them directly which would have been the most preferable course of action.

Ms Wisniewska also made an application that the Trust's Investigation Report (which was exhibited to Witness 3's witness statement) be admitted to evidence as well as paragraphs 3, 4, 13 and the first sentence of paragraph 14 of Witness 3's Witness statement, notwithstanding that the report is a finding by another body and notwithstanding that the paragraphs in the Witness statement draws conclusions and gives opinion. She submitted that this was fair and relevant evidence and invited the Panel to admit this to evidence.

Witness 1 made reference to the Trust's Investigation Report and its conclusions at paragraph 17 of her Witness statement and Ms Wisniewska submitted that this should also be admitted to evidence.

With regard to the Preliminary Investigation Report that was prepared by Witness 2, dated 14 February 2020, Ms Wisniewska submitted that this is not a final investigation report, but a preliminary report and it does not reach conclusions, it sets out the interactions with A's bank. She therefore submitted that this should also be admitted to evidence.

The panel heard and accepted the legal assessor's advice on the issues it should take into account in respect of this application. He noted that that were two aspects to the application: the admission of hearsay evidence and of the opinions and conclusions expressed in the unredacted preliminary investigation report and the investigation report respectively exhibited to the statements of Witness 2 and Witness 3.

In respect of the application to admit the extensive hearsay evidence found in various forms in the witness evidence, He referred to Rule 31-(1) which provides that:

" 31-(1) Upon receiving the advice of the legal assessor, and subject only to the requirements of relevance and fairness, a Practice Committee considering an allegation may admit oral, documentary or other evidence, whether or not such evidence would be admissible in civil proceedings (in the appropriate Court in that part of the United Kingdom in which the hearing takes place)."

He noted that, while this Rule provides a discretion to admit a wide spectrum of evidence, the critical limitation on that discretion is that it is:

"subject only to the requirements of relevance and fairness".

While the case concerns the admission of written statements of absent witnesses, the panel might be assisted in its consideration of the application by the "*relevant principles*" which are set out in the case of *Thorneycroft v Nursing and Midwifery Council [2014] EWHC 1565 (Admin)* (Mr Andrew Thomas QC (sitting as a Judge of the High Court), in particular at paragraph 45 of the judgment:

"45. For the purposes of this appeal, the relevant principles which emerge from the authorities are these:

1.1 *The admission of an absent witness should not be regarded as a routine matter. The FTP rules require the panel to consider the issue of fairness before admitting the evidence.*

1.2 *The fact that the absence of the witness can be reflected in the weight to be attached to their evidence is a factor to weigh in the balance, but it will not always be a sufficient answer to the objection to admissibility.*

1.3 *The existence or otherwise of a good and cogent reason for the non-attendance of a witness is an important factor. However, the absence of a good reason does not automatically result in the exclusion of the evidence.*

1.4 *Where such evidence is the sole and decisive evidence in relation to the charges, the decision whether or not to admit it requires the panel to make a careful assessment, weighing up the competing factors. To do so, the panel must consider the issues in the case, the other evidence which is to be called and the potential consequences of admitting the evidence. The panel must be satisfied either that the evidence is demonstrably reliable, or alternatively, there will be some means of testing its reliability.*

“In my judgment, unless the Panel is given the necessary information to put the application in its proper context, it will be impossible to perform this balancing exercise.”

At paragraph 56 of the judgment, the Judge stated that:

"The decision to admit witness statements despite their absence required the panel to perform (a) careful balancing exercise. it was essential in the context of the present case for the panel to take the following matters into account:

- (i) whether the statements were the sole or decisive evidence in support of the charges;*
- (ii) the nature and extent of the challenge to the contents of the statements;*

- (iii) whether there was any suggestion that the witnesses had a reason to fabricate their decisions;*
- (iv) the seriousness of the charge taking into account the impact which adverse findings might have on the Appellant's career;*
- (v) whether there was a non-attendance of the witnesses;*
- (vi) whether the Respondent had taken reasonable steps to secure their attendance;*
and
- (vii) the fact that the Appellant did not have prior notice that the statements were to be read."*

In respect of the opinions and conclusions expressed in the witness evidence, the legal assessor referred to the case of *Doris Enemuwe v Nursing and Midwifery Council [2015] EWHC 2081(Admin)*, (Holman J.) and in particular to paragraphs 37 -38, 77 - 79 and 83 of the judgment.

The rationale of that decision is that panels should make their own decisions on the evidence they receive and to decline to admit evidence of the findings of an (internal) investigation as being irrelevant.

The panel gave the application in regard to the hearsay evidence contained in all three Witness statements serious consideration.

There was also public interest in the issues being explored fully which supported the admission of the evidence before the panel into the proceedings. The panel considered that the unfairness in this regard worked both ways in that the NMC would be unable to adduce the evidence that may have assisted the panel in relation to the allegations concerned.

In deciding to admit the hearsay evidence/statements attributed to Patient A, the panel noted that it had not received any explanation or information as to any steps taken by the NMC to obtain their evidence or attendance. It noted that the NMC had not sought to

adduce the statements apparently provided by Patient A to either the police nor to the NMC, nor any medical evidence or their medical notes, nor any of the appendices to Witness 3's Investigation Report, (although some of those were summarised in the body of the Report). Further, any potential adverse findings could have a serious effect on Mr Valydon's career in view of the charge of dishonesty.

While the evidence indicated that Patient A suffered from a longstanding mental health condition, the panel would not speculate as to the reason for the absence of direct evidence from him. However, the panel was of the view that the statements attributed to him were not the sole and decisive evidence to support the charges in that there was supportive or corroborative evidence to be found in the responses of Mr Valydon to the witnesses and to the NMC. Further, Mr Valydon had received the evidence and could have expected that it would have been adduced in that form.

The panel decided that in all the circumstances, it was fair as well as relevant to admit such statements.

In deciding whether to admit evidence of the contents of the bank statements or of communications from Patient A's bank, there was no explanation as to why that evidence could not be produced. The panel noted that each of the NMC's three witnesses gave evidence that they had sight of such matters, which were relevant to their investigation of the allegations against Mr Valydon and were variously put to him. That being so, the panel considered that in so far as they were mutually corroborative in those respects, it would be fair to admit such evidence, while being mindful of the need to exercise care as to the weight and reliance to be placed on it.

In respect of any statements in the witness evidence or investigative reports which represented the opinions formed or decisions or conclusions reached by witnesses as a result of their investigations, the panel determined that they would exclude these from their consideration, in accordance with the guidance in the case of *Enemuwe* and reach its own conclusions on the evidence which had been adduced.

Decision and reasons on facts

In reaching its decisions on the facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Ms Wisniewska behalf of the NMC.

The panel has drawn no adverse inference from the non-attendance of Mr Valydon.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

The panel was of the view that it would have been assisted if direct evidence was available before it, but in the current circumstances when considering hearsay evidence and the weight to be attributed to it, the panel needed to exercise great caution to reach its determination.

The panel heard live evidence from the following witnesses called on behalf of the NMC:

- Witness 1: Social Work Professional Lead and Service Manager for Community Teams
- Witness 2: Senior Practitioner/Mental Health Nurse
- Witness 3: Operational Social Care Lead

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor, which included reminding the panel of the test for determining dishonesty as set out in the case of *Ivey v Genting Casinos [UK] Ltd. [2017] UKSC 67*.

The panel then considered each of the disputed charges and made the following findings.

Charge 1)

That you, a registered nurse, between 1 November 2019 and 1 February 2020, on more than one occasion, used Patient A's bank card and/or bank account for your own personal use;

This charge is found proved.

In reaching this decision, the panel took into account Mr Valydon's response to the NMC in his Regulatory Concerns Form (the Response Form) dated 29 July 2022 where he accepted that he took and/or spent money belonging to Patient A without their permission. The panel also considered the Witness statement from Witness 1 where it stated that Mr Valydon admitted the facts and called it an "*error of judgment*". Upon further questioning during live evidence, the panel heard from Witness 2 that Mr Valydon appeared to be distressed during a team meeting and accepted that he had the bank card and was using it.

Additionally, Witness 3 in his evidence stated that he had interviewed Mr Valydon and that Mr Valydon admitted to using the bank card. The panel also considered the meeting minutes with Patient A dated 18 February 2020, which corroborates the alleged concern raised in this charge.

The panel took into account the Preliminary Investigation Report dated 14 February 2020, which states that Patient A has not renewed his passport since it expired 26 years ago, and he does not travel anywhere in the UK. On that basis, the panel determined that it is

clear that this was not used by Patient A and that the evidence from all witnesses has remained consistent along with Mr Valydon's response to the NMC admitting to this fact.

The panel considered the Disciplinary Investigation Report of Witness 3 dated 5 February 2021 and noted that the safeguarding referral had originated from concerns about misuse of Patient A's bank account.

The panel found that the evidence of the witnesses, who were registered professionals, was reliable and consistent.

With all the evidence considered above, the panel determined that on the balance of probabilities, this charge is found proved.

Charge 2)

Your actions set out at charge 1 were dishonest as you knew that you did not have permission to use Patient A's bank card and/or bank account.

This charge is found proved.

In reaching this decision, the panel took into account Witness 1's oral evidence where she stated that Patient A said those transactions were not incurred by him. The panel were of the view that Mr Valydon did not have permission to use Patient A's bank card and/or bank account for Mr Valydon's personal use. The panel acknowledged that Patient A has remained consistent in his position that these transactions were not incurred by him.

The panel took into account Mr Valydon's response to the NMC in the Response Form where he stated that he had worked in the NHS since 1989 and had not been involved in any disciplinary matter or any concerns to his practise. The panel also acknowledged the evidence from all witnesses who spoke highly of Mr Valydon and his performance as a nurse. Witness 2 had reviewed all of Mr Valydon's case load and found no cause for

concern in respect of any other patient and expressed his shock that Mr Valydon should have apparently behaved in a way which appeared to him to be out of character.

Having considered written and oral evidence from all witnesses, they explained to the panel the procedures that all care coordinators should follow if they are concerned that a patient is not able to manage their finances. This involved completing a capacity assessment and making a referral to the local authority who are responsible for safeguarding vulnerable people, with a view to an 'appointeeship' being put in place to manage their finances. They also explained that it was common knowledge that a care coordinator would not manage any individual's bank accounts.

Witness 2 stated that on the day he had been informed of the safeguarding alert, he saw Mr Valydon at a team meeting. Mr Valydon appeared to be in an agitated state and subsequently admitted to Witness 2 that he had Patient A's bank card and had been using it for his (Mr Valydon's) own personal use and said that he made an error.

In returning the Response Form dated 29 July 2022, Mr Valydon entered 'yes' to the question whether he accepted regulatory concern 1:

'dishonest in that you took and / or spent money of Patient A without their permission.'

In the subsequent narrative, Mr Valydon indicated that he used the money to obtain repayment of advances he made to Patient A:

'He was unable to repay me my money and asked me to compensate that I used his online AC to get my money.'

'I believed at the time that he has already given written consent to the Bank for me to manage his Bank A/C hence I can use his AC in his presence to repay his debts.'

He would then come to the office and request that I would use his online AC to pay me back. On some occasions he did not have money left in his AC to repay me.'

Notwithstanding that statement, the panel was unable to accept that he could have believed he was entitled to use Patient A's bank account for his own personal use whether or not Patient A was indebted to him. In the light of the evidence given by the three witnesses, recording their discussions with Mr Valydon and his reaction on these occasions together with his significant experience as a registered nurse, the panel considered on the balance of probabilities that Mr Valydon could not have believed that he had permission to use Patient A's bank card and/or bank account in this way.

The panel determined that by the standard of ordinary decent people, using a patient's bank card and/or bank account without their permission would be considered to be dishonest.

Therefore, on the balance of probabilities, the panel found this charge proved.

Charge 3)

Breached professional boundaries in that you managed Patient A's personal finances when this was not permitted in your role as care coordinator.

This charge is found proved.

On the basis of the evidence before the panel, it was of the view that Mr Valydon was managing some aspects of Patient A's finances. In particular, the panel considered Mr Valydon's response to the NMC in his Response Form where he stated that he contacted Patient A's bank with a view to resolving the issue of Patient A's overdraft and obtained consent from Patient A's bank to manage their bank account online as Patient A was experiencing financial difficulties.

The panel took into account the job description for the position of a Locality Community Psychiatric Nurse and acknowledged that this dates from 1999 since when Mr Valydon's responsibilities may have evolved to those of a care coordinator. The first point in that job description under 'professional duties' states:

'To carry out nursing assessments of mental health needs of individuals within a therapeutic framework and report on assessment to colleagues as required, contributing fully to the multi-disciplinary care planning process.'

The panel heard live evidence from all witnesses about what should have happened and that Mr Valydon should have liaised with other agencies or services on behalf of clients. Therefore, the panel considered the professional duties on the basis of job description, witness evidence and Mr Valydon's own response.

Witness 1 stated that as a care coordinator, one would not be permitted to manage personal finances.

Witness 2 in his written statement confirmed that Mr Valydon was supporting Patient A to manage their finances. The panel acknowledged that all three witnesses held a consistent position in that it is not appropriate to manage a patient's personal finances and that there are procedures to be following in the workplace. If there are any issues arising, then these should be raised with a manager or local authority.

The panel acknowledged Mr Valydon's response to the NMC which states:

'The Bank agreed to consolidate the Overdraft and closed the A/C. He was then issued an ordinary Bank A/C with no overdraft facility. He also agreed to give written consent to the Bank that I manage his A/C on line [sic], so that I could keep an eye on his spending and making sure he pays the minimum loan every month. I set up a monthly reminder to my work email for that purpose.'

The panel also acknowledged Witness 1's written statement as follows:

'...Patient A said that the arrangement for the registrant to assist with the management of his finances had been put in place in the past year. Patient A did not say that he had given the registrant permission or authorisation to use his bank card and bank account. He added that during a conversation with the registrant in the previous couple of weeks, the registrant had admitted to misappropriating about £760 from Patient A's bank account. The registrant told Patient A that he would repay the amount once his elder sister in Mauritius gave him money after selling her jewellery.'

Witness 2 stated as follows:

'I found out from Bobby that he had been using Patient A's bank account and Patient A's card for Bobby's personal purchases and to manage Patient A's finances. As I was one of the managers Bobby disclosed this information to me after the Safeguarding concerns had been raised. He had never mentioned he had been managing Patient A's finances at our supervision meetings.'

'We do not manage our patient's finances and it is not a normal practice for our nursing staff. There was no reason for Bobby to manage Patient A's finances formally. I suppose it was arranged between Bobby and Patient A informally.'

Therefore, on all the evidence above, the panel determined that Mr Valydon was managing aspects of Patient A's finances when this was outside the scope of his responsibilities as a care coordinator. As such, the panel considered that Mr Valydon breached his professional boundaries.

Therefore, on the balance of probabilities, the panel found this charge proved.

Charge 4a)

Failed to adequately escalate safeguarding concerns in relation to Patient A by:

- a) not conducting a patient capacity assessment and/or informing a manager that Patient A was unable to manage their finances

This charge is found proved.

In reaching its decision, the panel considered Mr Valydon's response, which states:

'This arrangement work for few years until 2019 when he got into financial difficulties again. He did not have any money to buy food, pay his bills. He became very distressed and he started expressing suicidal ideations. I became quite worry [sic] and images of his previous OD came back to my mind.'

The panel determined that it appears that Mr Valydon was aware that Patient A was experiencing financial difficulties, and on the basis of the evidence before the panel, there is no evidence of a capacity assessment carried out by Mr Valydon.

The panel noted the evidence from all three witnesses who confirmed that if an individual cannot manage their own finances, then a capacity assessment should be undertaken. However, Mr Valydon did not do so when he should have done.

The panel also considered Witness 2's evidence where he stated that Mr Valydon never mentioned managing Patient A's finances during the supervision meetings and there are no records to show otherwise in the supervision notes. Therefore, the panel determined that Mr Valydon's failed to escalate this concern to his managers and no capacity assessment had taken place.

Therefore, on the balance of probabilities, the panel found this charge proved.

Charge 4b)

- b) not informing a manager that you had concerns about Patient A's mental state and/or that Patient A was at risk of suicide;

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

This charge is found proved.

In reaching its decision, the panel considered the supervision notes, which do not show Mr Valydon had concerns about Patient A's mental health. However, the panel noted from Mr Valydon's response to the concerns form that he stated that Patient A:

'became very distressed and he started expressing suicidal ideations. I became quite worry [sic] and images of his previous OD came back to my mind.'

Witness 2 in his written statement stated:

'...I don't think Patient A had suicidal thoughts because of his financial problems. If Bobby had such concerns about Patient A he would have brought this to my attention and he would have informed Patient A's GP but he did not...'

Additionally, the panel also considered Mr Valydon's response as referenced in the Disciplinary Investigation Report where he stated that he believed:

"it was an error of judgement from my part to lend him money. I was under pressure and quite worried and anxious about his previous risk of suicide due to financial difficulties."

The panel acknowledged that there were no health records for Patient A. The only direct statement from Mr Valydon about Patient A's health was in his Response Form (above) to the NMC.

However, in light of all of the information before the panel, it determined that Mr Valydon did have mental health concerns about Patient A, which he should have escalated this to his manager. Both Witness 1 and 2 confirmed that this was not escalated.

Therefore, on the balance of probabilities, the panel found this charge proved.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Mr Valydon's 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, has 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 has 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, Mr Valydon's fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

Ms Wisniewska referred the panel 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.'* She also referred the panel to the case of *Nandi v GMC* [2004] EWHC 2317 (Admin) where it stated that *'the adjective 'serious' must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioners.'*

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

Ms Wisniewska identified the specific relevant standards where, in her submission, Mr Valydon's actions amounted to misconduct.

With regard to charge 1, Ms Wisniewska submitted that the following paragraphs in the NMC Code have been breached:

20.2 act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment.'

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

20.6 stay objective and have clear professional boundaries at all times with people in your care (including those who have been in your care in the past), their families and carers.

In relation to charge 2 that is found proven, Ms Wisniewska submitted that this is a very serious dishonesty matter and that Mr Valydon was in breach of:

20 Uphold the reputation of your profession at all times

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 and without discrimination, bullying or harassment.

Ms Wisniewska submitted that in relation to charges 1 and 2, the following code has been breached:

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.

With regard to charge 3, Ms Wisniewska submitted that Mr Valydon has breached:

20.6 stay objective and have clear professional boundaries at all times with people in your care (including those who have been in your care in the past), their families and carers.

Ms Wisniewska submitted that charges 4 (a) and (b), are a breach of:

17 Raise concerns immediately if you believe a person is vulnerable or at risk and needs extra support and protection

17.1 take all reasonable steps to protect people who are vulnerable or at risk from harm, neglect or abuse

17.2 share information if you believe someone may be at risk of harm, in line with the laws relating to the disclosure of information

17.3 have knowledge of and keep to the relevant laws and policies about protecting and caring for vulnerable people.

Taking into account the standards and requirements imposed by the NMC Code, Ms Wisniewska submitted that Mr Valydon's actions amount to serious professional misconduct.

Submissions on impairment

Ms Wisniewska 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, including the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. She referred to *'the well-known test as set out by Dame Janet Smith in the Fifth Shipman Inquiry Report. This test requires the panel to consider four questions to determine whether the lack of competence or misconduct shows that Mr Valydon's fitness to practise is impaired:*

- 1) 'Has in the past acted and/or is liable in the future to act so as to put patients at unwarranted risk of harm.'*

Ms Wisniewska submitted that Mr Valydon by his own admission to Witness 1 and Witness 2 and said that he made an error of judgment and breached professional boundaries. As such, he used Patient A's bank card and account to make personal payments and therefore took advantage of a vulnerable patient in his care. She submitted that the harm is that he took advantage of this patient by managing their finances when he should not have done and also by making personal payments from Patient A's own money. Ms Wisniewska submitted that as this is a dishonesty matter, Mr Valydon is liable to repeat this behaviour in the future.

2) *'Has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

Ms Wisniewska submitted that the panel has found charge 2 to be proved in that Mr Valydon was dishonest because he used Patient A's bank card and account for personal payments when he knew he did not have permission to do so.

3) *'Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the profession.'*

Ms Wisniewska submitted that Mr Valydon:

- Failed to be honest.
- Failed to take measures to ensure his patient was safe (the issue of security in the sense of making sure that Patient A was not taken advantage of regarding his finances).
- Failed to communicate clearly with his colleagues and escalate his concerns.
- Failed to maintain appropriate professional boundaries.

4) *'Has in the past and/or is liable in the future to bring the medical professional into disrepute and/or such a finding is inescapable in the circumstances'.*

Ms Wisniewska submitted that such a finding is inescapable taking into account all the circumstances of the case.

Ms Wisniewska submitted that all the limbs of the test are engaged in this case by virtue of the findings of fact made, and the panel may be justified in finding that Mr Valydon is liable in the future to repeat the same behaviour. In particular, the finding of dishonesty is not easily capable of remediation given the nature of the finding and is indicative of a serious

attitudinal failing which conflicts with, and is not in accordance with, the standards expected of a registered nurse.

Ms Wisniewska submitted that there is a real risk of repetition given the dishonesty finding and therefore a serious attitudinal failing, contrary to 20.2 of the NMC Code of Practice to act with honesty and integrity at all times.

Ms Wisniewska submitted that Mr Valydon has also shown no remediation and very little insight at all into any of the failings.

Ms Wisniewska invited the panel to find that Mr Valydon is currently impaired by virtue of his misconduct and the risk to patients that he presents both at the present time and going forward.

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), *Council for Health Care Regulatory Excellence v Nursing and Midwifery Council, Paula Grant* [2011] EWHC 927 (Admin), *Ronald Jack Cohen v General Medical Council* [2008] EWHC 581 (Admin) and *Yeong v GMC* [2009] EWHC 1923 (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 Mr Valydon's actions did fall significantly short of the standards expected of a registered nurse, and that Mr Valydon's actions amounted to breaches of the Code. Specifically:

3 Make sure that people's physical, social and psychological needs are assessed and responded to

To achieve this, you must:

- 3.3 act in partnership with those receiving care, helping them to access relevant health and social care, information and support when they need it.*
- 8.1 respect the skills, expertise and contributions of your colleagues, referring matters to them when appropriate*
- 8.6 share information to identify and reduce risk*
- 17.1 take all reasonable steps to protect people who are vulnerable or at risk from harm, neglect or abuse*
- 17.2 share information if you believe someone may be at risk of harm, in line with the laws relating to the disclosure of information*
- 17.3 have knowledge of and keep to the relevant laws and policies about protecting and caring for vulnerable people*
- 20.2 act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment*
- 20.5 treat people in a way that does not take advantage of their vulnerability or cause them upset or distress*

20.6 stay objective and have clear professional boundaries at all times with people in your care (including those who have been in your care in the past), their families and carers

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.

In relation to charge 1, the panel referred to paragraphs 20.2, 20.3, 20.6 and 21.3 of the Code as listed above, and decided that these have been breached as Mr Valydon had abused his position as a registered nurse for financial gain from a vulnerable patient. The panel was of the view that Mr Valydon did not act with the integrity required of a registered nurse when he used the patient's bank card and/or bank account for his own personal use.

With regard to charge 2, the panel referred to paragraphs 20.2 and 21.3 of the Code and determined that these were breached due to the nature of the charge, which relates to dishonesty in relation to Mr Valydon using Patient A's bank account for personal use without their permission. Therefore, on that basis, the panel was of the view that Mr Valydon failed to act with honesty and integrity.

In charge 3, the panel determined that paragraph 20.6 of the Code was breached as on the basis of the job description, it was not Mr Valydon's role as a care coordinator to manage a patient's finances. Therefore, the panel was of the view that Mr Valydon breached professional boundaries for doing so.

Having considered charges 4a and 4b, the panel determined that in charge 4a, paragraphs 17.1-17.3 of the Code have been breached as considering the level of Mr Valydon's experience, he should have been aware of the safeguarding risk in respect of

Patient A and have conducted a capacity assessment and to adequately escalate this to his manager. However, Mr Valydon had not done so when he should have done and this posed a risk of significant harm to the patient.

With regard to charge 4b, the panel considered paragraphs 3.3, 8.1, 8.6, and 17.1-17.3 of the Code and determined that these were breached due to Mr Valydon's failure to escalate the safeguarding concerns that he had identified in relation to Patient A. The panel considered the oral evidence from witnesses who confirmed that they were unaware of the safeguarding risk as this was not escalated to them by Mr Valydon.

The panel found that Mr Valydon's actions in relation to each of the charges, individually and collectively, fell seriously short of 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 whether, as a result of his misconduct, Mr Valydon's 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 all four limbs of the test are engaged.

The panel determined that Patient A was put at risk of emotional harm as a result of Mr Valydon's misconduct. There was also a risk of physical harm potentially resulting from his failure to adequately address the safeguarding concerns. Mr Valydon's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its

reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious. In relation to the fourth limb, the panel has found the dishonesty charge proved.

Regarding insight, the panel noted that Mr Valydon apologised and made admissions in his Response Form as well as to witnesses 1 and 2. It further noted that Witness 2 stated:

'...he expressed remorse and he was in (a) terrible emotional state.'

The panel acknowledged that Mr Valydon in his Response Form stated that he had experienced personal issues and that there had been some changes within the workplace, which had caused him some problems. The panel also acknowledged that Mr Valydon in his Response Form stated that he completed a course on Professional Conduct, but the panel did not have sight of this certification. The panel noted that Mr Valydon stated that he had carried out '*supervision*' in the course of his work.

The panel determined that although Mr Valydon has accepted that he made an error of judgment, he has shown limited insight into how his actions put the patient at a risk of harm or how he would handle the situation differently in the future nor as to the effect his conduct would have had upon members of or the reputation of his profession.

The panel was mindful that dishonesty is not easily remediable. The panel carefully considered the evidence before it in determining whether or not Mr Valydon has taken steps to strengthen his practice. The panel took into account that Mr Valydon stated that he had completed a Professional Conduct course and carried out '*supervision*'. However, there was no evidence before the panel to assist it in determining whether Mr Valydon had taken these or other steps with a view to remediating his dishonesty.

The panel is of the view that there is a risk of repetition and risk of harm due to the nature of the concerns and limited evidence of Mr Valydon's strengthening his practice. The panel also noted that the dishonesty aspect points to an attitudinal issue in respect of

which Mr Valydon has not shown he had taken sufficient steps to remedy. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that 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. Mr Valydon had dishonestly misappropriated, over a long period of time and for his own benefit, money belonging to a vulnerable patient who was under his care. The panel considered that a fully informed member of the public would be extremely concerned if they knew that a nurse who had behaved in this manner were allowed to practise without restriction. The panel also determined that this would undermine public confidence in the profession and the NMC as the regulator if a finding of impairment were not made in this case. Therefore, the panel also finds Mr Valydon's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Mr Valydon's fitness to practise is currently impaired.

Sanction

The panel has considered this case very carefully and has decided to make a striking off order. It directs the registrar to strike Mr Valydon's name from the register. The effect of this order is that the NMC register will show that Mr Valydon has been struck off the register.

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

Submissions on sanction

Ms Wisniewska submitted that taking no action would evidently be inappropriate in this case, given the gravity of the misconduct. She referred the panel to the NMC sanctions guidance and invited the panel to consider the aggravating and mitigating factors first.

Ms Wisniewska submitted that the misconduct found proved included a finding of dishonesty. In every case, the Fitness to Practise Committee must carefully consider the kind of dishonest conduct. Not all dishonesty is equally serious. Generally, the forms of dishonesty which are most likely to call into question whether a nurse, midwife or nursing associate should be allowed to remain on the register will involve the factors listed in the guidance. Ms Wisniewska drew the panel's attention to the issue of direct risk to patients in this case. Ms Wisniewska also drew attention to the following additional aggravating factors:

- Attitudinal and behavioural concerns based on dishonesty;
- Abuse of a position of trust;
- A pattern of misconduct over a period of time; and
- Mr Valydon has demonstrated a lack of insight into the concerns as to what he has learnt and could have done differently.

Ms Wisniewska submitted that there are no mitigating factors.

Ms Wisniewska submitted that taking no further action would evidently be inappropriate in this case given the gravity of the misconduct. The panel has found the dishonesty charge proved, as well as other charges relating to misconduct and there is a real risk of repetition of the issues which means that more must be done by way of sanction to protect the

public from harm and to maintain public confidence in the profession. She submitted that the same arguments are applicable in respect of a caution order.

With regard to a Conditions of Practice Order, Ms Wisniewska submitted that this would not appropriately address the concerns about public protection and would also not appropriately address the concerns about protecting the public interest; in particular maintaining public confidence in the nursing and midwifery professions and to declare and uphold proper standards of conduct and behaviour. She submitted that there are no workable, relevant, measurable and proportionate conditions that could address the misconduct given that the panel has determined that Mr Valydon's failings amounted to dishonesty and serious misconduct.

With regard to a suspension, Ms Wisniewska submitted that a suspension is not the appropriate sanction in this case either, for the following reasons:

- Guidance states that this is appropriate where there is no evidence of harmful deep-seated personality or attitudinal problems; and where there is no significant risk of repetition; and
- Mr Valydon fell short of the requirement to act with honesty and integrity at all times and abused his position of trust in respect of a vulnerable patient.

Ms Wisniewska referred to the panel's determination in that the dishonesty aspect of this case points to an attitudinal issue in which Mr Valydon has not shown he has taken sufficient steps to remedy and submitted that a suspension order is not the appropriate and proportionate sanction in this case.

Ms Wisniewska referred the panel to the NMC Guidance, which states that before imposing this sanction, key considerations the panel will take into account include:

(1) *Do the regulatory concerns about the nurse, midwife or nursing associate raise fundamental questions about their professionalism?* In the NMC's submission the answer is: yes.

(2) *Can public confidence in nurses, midwives and nursing associates be maintained if the nurse, midwife or nursing associate is not removed from the register?* In the NMC's submission the answer is: no.

(3) *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?* In the NMC's submission the answer is: yes.

Ms Wisniewska submitted that dishonesty and exploiting a patient for financial gain is serious enough to justify removing Mr Valydon from the register. She also submitted that members of the public would be concerned to know that Mr Valydon, in respect of whom all the charges have been found proved in relation to such serious allegations, remains on the register and striking off is the only appropriate sanction sufficient to protect patients and to maintain professional standards.

In considering proportionality and in balancing the public interest and the need for protection of the public against Mr Valydon's own interests, Ms Wisniewska submitted that the most appropriate and proportionate sanction is a striking off order, taking into account all the circumstances of the case.

Decision and reasons on sanction

The panel accepted the advice of the legal assessor.

Having found Mr Valydon's 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 took into account the following aggravating features:

- Abuse of a position of trust;
- Lack of insight into failings;
- A pattern of misconduct over a period of time;
- Conduct which put patients at risk of suffering harm; and
- Gaining financial advantage from a vulnerable patient for personal use.

The panel also considered mitigating features.

The panel noted that Mr Valydon had made admissions at various stages and also apologised and expressed a degree of remorse. However, it considered that Mr Valydon had only shown limited insight into the extent of his misconduct and the impact on patients, colleagues, and the wider profession.

The panel also noted that Mr Valydon appeared to have an otherwise unblemished career as a nurse. However, given the seriousness of the misconduct the panel had found proved, it considered that this factor attracted limited weight in terms of mitigation.

There were also assertions by Mr Valydon in the documents of some personal issues although there were no substantive details or evidence in relation to these and the panel only gave limited weight.

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 would not be sufficient to protect the public. 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 Mr Valydon's 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 Mr Valydon's 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 Mr Valydon's registration would be a sufficient and appropriate response. The panel noted that there has been no engagement from Mr Valydon to show whether he would be prepared to work with conditions if they were to be put in place. Additionally, the panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case in that the concerns raised do not relate to clinical failings, but attitudinal issues. The panel also determined that 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 Mr Valydon's registration would not adequately address the seriousness of this case and would not protect the public.

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; and*

- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour.*
- *[...]*

This was not a one-off incident but a sustained abuse of his position over the period of a year. Mr Valydon has shown very limited insight and his conduct pointed to an attitudinal problem.

Accordingly, the panel determined that the factors highlighted in the SG when a suspension order might be appropriate were not applicable in this case. Therefore, a suspension order would not be a sufficient, appropriate, or proportionate sanction.

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?*

Mr Valydon's actions were significant departures from the standards expected of a registered nurse and in the panel's view, raised fundamental questions about his professionalism. The panel determined that public confidence cannot be maintained if Mr Valydon is not removed from the register. The panel decided that striking off is the only sanction which will be sufficient to protect patients, members of the public, and maintain professional standards.

The panel was of the view that, in light of the gravity of Mr Valydon's misconduct, his remaining on the register was incompatible with the overarching objectives of the NMC.

The panel considered that this order was necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

This will be confirmed to Mr Valydon in writing.

Interim order

As the 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 Mr Valydon's own interests.

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

Submissions on interim order

The panel took account of the submissions made by Ms Wisniewska who applied for an interim suspension order for a period of 18 months in that it is necessary to protect the public and the wider interest pending any appeal made in respect to the striking order.

Decision and reasons on interim order

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's

determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months as it would be inconsistent with its decision to impose a striking off order if it were not to cover the appeal period with an interim suspension order.

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

That concludes this determination.