



Report of Finding and Sanction

Respondent	Emma Elizabeth SMITH
Case reference	2024/1532/D5
Inn of Court	Lincoln's Inn (2005)
Status at hearing	Unregistered
Hearing date	08 April 2026
Tribunal Type	5 Person Tribunal

Tribunal members

Chair	HH Nicholas Ainley
Barrister member	Charlotte Davies
Barrister member	Elahe Youshani
Lay member	Stephen Dann
Lay member	Ian Arundale

Representatives

Bar Standards Board	Winston Jacob
Respondent	Present and representing themselves

Outcome

Findings	All charges admitted
Sanction	Disbarred BSB not to issue a practising certificate pending any appeal
Costs	£3,210 payable to the Bar Standards Board

1. In accordance with an appointment made by the President of the Council of the Inns of Court contained in a Convening Order dated 18 March 2026, The Tribunal sat on 8 April 2026 to hear and determine 3 charges of professional misconduct contrary to the Code of Conduct of the Bar of England and Wales against Emma Elizabeth Smith barrister of the Honourable Society of Lincoln's Inn.

Charges

2. The following charges were admitted

Charge 1

Statement of Offence

Professional misconduct, contrary to Core Duty 3 and/or rC8 of the Bar Standards Board Handbook (version 4.8).

Particulars of Offence

Emma Smith, a barrister, failed to act with honesty and with integrity and/or acted in a way which could reasonably be seen by the public to undermine her honesty and integrity, in that, on 19 June 2024, at a hearing in the Family Court, she advanced an application for an order to change the nursery of her client's child, which application gave the impression that the child was yet to move to an alternative nursery. This was misleading, as her client had already moved the child to an alternative nursery, in breach of an existing Specific Issue Order. Ms Smith knew this, as her client had told her in a conference on 5 June 2024. Ms Smith failed to draw this relevant fact to the Court's attention.

Charge 2

Statement of Offence

Professional misconduct, contrary to Core Duty 1 of the Bar Standards Board Handbook (version 4.8).

Particulars of Offence

Emma Smith, a barrister, failed to observe her duty to the court in the administration of justice, in that, on 19 June 2024, at a hearing in the Family Court, she advanced an application for an order to change the nursery of her client's child, which application gave the impression that the child was yet to move to an alternative nursery. This was misleading, as her client had already moved the child to an

alternative nursery, in breach of an existing Specific Issue Order. Ms Smith knew this, as her client had told her in a conference on 5 June 2024. Ms Smith failed to draw this relevant fact to the Court's attention.

Charge 3

Statement of Offence

Professional misconduct, contrary to rC6.1a of the Bar Standards Board Handbook (version 4.8).

Particulars of Offence

Emma Smith, a barrister, made submissions, representations or a statement which she knew or was instructed were untrue or misleading, in that, on 19 June 2024, at a hearing in the Family Court, she told the Court that her client had made an application to move her child to an alternative nursery, thereby giving the impression that the child was yet to move to the alternative nursery. This was misleading, as her client had already moved the child to an alternative nursery, in breach of an existing Specific Issue Order. Ms Smith knew this, as her client had told her in a conference on 5 June 2024. Ms Smith failed to draw this relevant fact to the Court's attention

Parties Present and Representation

3. The Respondent was present and was not represented. The Bar Standards Board ("BSB") was represented by Winston Jacob.

Findings and Sanction

4. Emma Smith was called to the bar at Lincoln's Inn on the 13th of October 2005. She entered practice on the western circuit and., with a career break, continued in practice on that circuit until recently.
5. She faces charges of dishonesty in respect of her conduct at a family hearing before DJ Murray on the 19th of June 2024. She has admitted those charges and, to her credit, has never sought to evade responsibility for what she did.
6. The background to that hearing is a matrimonial dispute relating to a three year-old child.

7. On the 22nd of December 2023 the Family Court made a Specific Issues Order requiring that child to attend a specific nursery until and unless a different order was made. Ms Smith was not instructed in the case when that order was made.
8. She was, however, instructed by early June because on the 5th of June 2024 she had a conference with the mother of the child who was by then her lay client. In that conference Miss Smith was told that because of difficulties with the father who was harassing her at the nursery, which was near where he worked, she, the mother, had moved the child out of that nursery and into another nursery without seeking permission from the Court.
9. Ms Smith advised her that she was in breach of the order and that she needed to make a retrospective application to the Court to permit the move that had already taken place and regularise the situation. That was obviously the correct advice to give.
10. On the 10th of May 2024 a written application was made seeking permission to change nursery. It was implicit in that application that the child had not actually moved, whereas the true position was of course different. Miss Smith was not responsible for the drafting of that application.
11. The application came on before DJ Murray on the 19th of June 2024. It was opposed. The father, who was appearing in person, was present of the hearing, as was Ms Smith representing the mother. DJ Murray did not know that the move to the new nursery had actually taken place and neither did the father, and Miss Smith never told either of them during the course of the hearing that the move of nursery had actually taken place even though she knew that it had.
12. We have a transcript of the hearing that took place. It is obvious from that transcript that Miss Smith allowed the father and DJ Murray to be misled about what the true situation was.
13. It is perhaps sufficient that two examples illustrating DJ Murray's state of mind can be particularised.
14. At page B 26 there is a passage which shows that the district judge and father thought that the child was still at the original nursery because a query was raised as to whether there was a place for the child to go to. In fact, as Ms Smith knew, there was and the child had already gone. She should have intervened to explain that that had happened, but she did not.

15. At page B 41 DJ Murray said *“it's very tempting to try to resolve the nursery issue now but I think if we do that, it's going to be a half cocked attempt”* Here there was an obvious positive duty on Ms Smith to intervene but she did not and instead allowed the district judge and the father to be misled
16. The father, it should be pointed out, expressed opposition to any move of nursery taking place so it was of particular importance that he should be aware of what the mother had done.
17. The hearing was adjourned. Two hours later, Miss Smith having considered her conduct at the hearing, reported herself to the BSB.
18. She accepts, as she has accepted throughout, that she deliberately allowed the Court to be misled about what the true nursery position was. The phrase that she adopted was that she had allowed her clients interest to take precedence over her duty to the Court. She accepts, and in our judgement rightly accepts, that her behaviour in allowing the Court to be misled on a matter that was in dispute between the parties and in particular where the opposing party was not represented amounted to professional dishonesty.
19. She does not seek to excuse herself nor does she ask for any other sanction than disbarment. We commend her frankness before this tribunal.
20. She has now left practice at the bar and is pursuing another career. She has no wish to return to the bar even though in a powerful reference her former head of chambers indicated that she would be welcome to return if only she wanted to.
21. We have to consider, whatever her view, the appropriate sanction in what is a case of admitted dishonesty. Here what is of paramount importance is maintaining the confidence of the public in the integrity of the profession and its practitioners. Dishonesty, particularly in the face of the court, strikes at the heart of that confidence. For that reason even where, as here, there were no serious long term consequences, because the move to the new nursery was later allowed, the only sanction, unless there are exceptional circumstances is disbarment.
22. We do not know why she chose to act in a way that we accept was completely out of character for an otherwise exemplary practitioner and nor, we think does she, but that cannot amount to an exceptional circumstance.
23. There are in truth no other exceptional circumstances that we are invited to find or can find.

24. Accordingly, our order is that Ms Smith be disbarred.
25. An order for the BSB not to issue a practicing certificate pending any appeal is also made.
26. The Treasurer of the Honourable Society of Lincoln's Inn is requested to take action on this report in accordance with rE239 of the Disciplinary Tribunal Regulations 2017

Costs

27. The Tribunal ordered costs of £3,210 payable to the BSB within three months of the hearing date.

Dated: 5 May 2026

**HH Nicholas Ainley
Chairman of the Tribunal**