Nursing and Midwifery Council

Fitness to Practise Committee

Substantive Hearing
Tuesday, 9 January 2024 - Friday,12 January 2024
Wednesday, 13 March 2024 – Friday, 15 March 2024

Virtual Hearing

Name of Registrant:	**Karen Wendy Metwalli**
NMC PIN	95I0113E
Part(s) of the register:	Registered Nurse – Sub part 1 Adult Nurse – September 1998
Relevant Location:	Scarborough
Type of case:	Misconduct
Panel members:	Alan Greenwood (Chair, lay member) Lisa Punter (Registrant member) Brian Stevenson (Lay member)
Legal Assessor:	Nina Ellin
Hearings Coordinator:	Nandita Khan Nitol
Nursing and Midwifery Council:	Represented by Case Presenter, Hena Patel, (9-12 January 2024) Mohsin Malik (13–15 March 2024)
Mrs Metwalli:	Present and unrepresented (9-12 January 2024) Not present and not represented at the hearing (13 -15 March 2024)
Facts proved by admission:	Charges 1, 3, 5, 7, 9, 11a), 11b), 13a) and 13b)
Facts not proved:	Charge 10
Facts proved:	Charges 2, 4, 6, 8, 12 and 14
Fitness to practise:	**Impaired**
Sanction:	**Suspension order (six months)**
Interim Order:	**No order**

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

At the outset of the hearing, Ms Patel on behalf of the Nursing and Midwifery Council (NMC) made a request that parts of this case be held in private on the basis that proper exploration of your case involves reference to [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 indicated that you supported the application.

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 [PRIVATE], the panel determined to hold such parts of the hearing in private as and when these issues are raised. It was satisfied that this was justified and that it outweighed any prejudice to the general principle of public hearing.

Details of charge

That you, a registered nurse:

1. On 15 January 2019, in Customer A's Employment and Support Allowance ("ESA") medical report form, wrongly recorded "The client was accompanied by their friend, who stayed in the waiting room during the assessment."

2. Your conduct in charge 1 was dishonest in that you deliberately sought to create the misleading impression that Customer A had been accompanied to the assessment centre with a friend when you knew they had attended the assessment centre alone.

3. On 15 January 2019, in Customer B's Universal Credit ("UC") medical report form, wrongly recorded "The client was accompanied by their father, who was present during the assessment."

4. Your conduct in charge 3 was dishonest in that you deliberately sought to create the misleading impression that Customer B had been accompanied to the assessment centre with their father when you knew they had attended the assessment centre alone.

5. On 15 January 2019, in Customer C's ESA medical report form, wrongly recorded "The client was accompanied by their father, who was present during the assessment".

6. Your conduct in charge 5 was dishonest in that you deliberately sought to create the misleading impression that Customer C's father had been present during the assessment, when you knew he had remained in the waiting room.

7. On 16 January 2019, in Customer D's ESA medical report form, wrongly recorded "The client was accompanied by their friend, who was present during the assessment".

8. Your conduct in charge 7 was dishonest in that you deliberately sought to create the misleading impression that Customer D attended the assessment centre with their friend and that their friend was present during the assessment when you knew they had attended the assessment centre with their baby only.

9. On 29 January 2019, in Customer E's ESA medical report form, wrongly recorded "The client was accompanied by their brother, who was present during the assessment."

10. Your conduct in charge 9 was dishonest in that you deliberately sought to create the misleading impression that Customer E attended the assessment

centre with their brother and that their brother was present during the assessment when you knew they had attended the assessment centre alone.

11. On 30 January 2019, in Customer F's ESA medical report form, wrongly recorded:

a) "He attended the assessment today with his friend and they walked to the centre";
b) "His friend tried to encourage him to answer but this was a struggle due to his anxiety".

12) Your conduct in charge 11 was dishonest in that you deliberately sought to create the misleading impression that Customer F attended the assessment centre with their friend and that their friend was present during the assessment when you knew they had attended the assessment centre alone.

13. On 30 January 2019, in Customer G's UC medical report form, wrongly recorded:

a) "She attended the assessment today with her niece who drove to the centre and then they walked from the car park which took 5 minutes";
b) "She was very anxious throughout the assessment and was clearly struggling and needed lots of support from her niece".

14. Your conduct in charge 13 was dishonest in that you deliberately sought to create the misleading impression that Customer G attended the assessment centre with their niece and that their niece was present during the assessment when you knew they had attended the assessment centre alone.

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

Background

On 15 August 2019 the NMC received a referral about your fitness to practise from the Clinical Assurance Lead at the Centre for Health and Disability Assessments ("CHDA"), [PRIVATE].

You began working for CHDA in June 2015. CHDA assesses claimants for disability related benefits and submits reports to the Department of Work and Pension (DWP) with the results. You resigned from that employment in April 2019 before a disciplinary hearing could be held.

In December 2018 concerns were raised by staff members to your manager, about the accuracy of your reports. An investigation took place in January 2019 regarding the accuracy of the reports, during which it came to light that there were several occasions when you documented in the reports that claimants were accompanied to their appointments, when in fact they had attended the assessment centre alone.

Decision and reasons on facts

At the outset of the hearing, you made full admissions to charges 1, 3, 5, 7, 9, 11a), 11b), 13a) and 13b).

The panel therefore finds charges 1, 3, 5, 7, 9, 11a), 11b), 13a) and 13b) proved in their entirety, by way of your admissions.

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

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 accepted the advice of the legal assessor.

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

- Witness 1: Assessment Centre Manager at the time
- Witness 2: Current manager of the centre

In considering whether your actions were dishonest in the charges below, the panel had regard to the test as set out in the case of *Ivey v Genting Casinos* [2017] UKSC 67:

- What was your actual state of knowledge or belief as to the facts; and
- Was your conduct dishonest by the standards of ordinary decent people?

The panel took into account the NMC Guidance document '*Making decisions on dishonesty charges*.'

Charge 2

2) Your conduct in charge 1 was dishonest in that you deliberately sought to create the misleading impression that Customer A had been accompanied to the assessment centre with a friend when you knew they had attended the assessment centre alone.

This charge is found proved.

The panel took into account your admission on charge 1 in that you wrongly recorded that Customer A was accompanied by their friend who stayed in the waiting room during the assessment.

You said in evidence that you were told by Customer A that they came with their friend to the assessment centre. You also said that you did not see the friend, but it did not matter as you would not have noticed the friend and that you would not necessarily have known who was in the waiting room. You said that what you recorded about the friend was based on what Customer A told you. You also said that you believed them and that they had no reason to lie. You further said that you went to the waiting room to call Customer A's name but did not notice anyone else.

The panel had regard to the assessment centre timetable on 15 January 2019 where it found that Customer A was the first on the list. It noted there were two appointments, one for 9:00 am and another for 9:20 am. The panel took account of the evidence of Witness 1 and also your sketch for the layout of the waiting room.

The panel also had regard to the assessment summary written by you for Customer A, which included:

> '[they] were *observed to walk 10 metres with a broad based gait using one stick and was slightly unsteady to the assessment room.* [They] *had no problems sitting but slight problems rising from the chair but did not need any help. [*They] *managed to use the step to get on the couch. [*They] *had no problems navigating the assessment centre and heard* their *name being called from the waiting room.'*

In reviewing the evidence, the panel determined that, according to the timetable, there were only a few people in the waiting room. The panel found that the circumstances and background are such that as indicated in your report you had observed Customer A closely in the waiting room contrary to your evidence that you did not notice when you collected Customer A. Therefore, the panel determined that your report for Customer A undermined your evidence that you did not pay any attention to the customers in the waiting room and that your record was an error. On the balance of probabilities, you did know that Customer A had come alone and, knowing that, you recorded wrongly that Customer A was accompanied in order to create a deliberately misleading impression.

In light of the above, the panel found your conduct in charge 2 was dishonest according to the standards of ordinary decent people.

Charge 4)

4)Your conduct in charge 3 was dishonest in that you deliberately sought to create the misleading impression that Customer B had been accompanied to the assessment centre with their father when you knew they had attended the assessment centre alone.

This charge is found proved.

The panel took into account your admission on charge 3 in that you wrongly recorded in the UC medical report form that Customer B was accompanied by their father who was present during the assessment.

Your said in evidence that you were told by Customer B that they had come with their father and that you thought that their father was in the waiting room. You also told the panel that you did not seek to create a misleading impression and that it was a mistake you made on the computer by selecting '*father*' from the drop-down menu, and you did not check your work prior to submission. You also said that you were under a lot of pressure because of the targets at the time and that there was also the added pressure from the reception staff as they were coming to the assessment room and asking you how long you would be.

The panel also had regard to the free typing section of the report submitted by you for Customer B, which included:

"[They] *attended the assessment today with* their *father."*

The panel noted the inconsistencies in your evidence. It noted your evidence that you were under pressure when you mistakenly selected the wrong drop-down box when choosing the option for the father's presence. However, upon further examination of the typed report, the panel found that there was a clear option for free typing which was

available for you when you mentioned that the father attended the assessment with Customer B. The panel determined that this created the impression that Customer B's father was present during the assessment rather than in the waiting room as indicated in your oral evidence.

On the balance of probabilities, the panel found that Customer B had come alone and, knowing that, you recorded wrongly that Customer B had been accompanied to the assessment centre with their father. The panel found that you deliberately sought to create a misleading impression that Customer B had been accompanied to the assessment centre by their father.

In light of the above, on the balance of probabilities, the panel found your conduct in charge 4 was dishonest according to the standards of ordinary decent people.

Charge 6)

> 6)Your conduct in charge 5 was dishonest in that you deliberately sought to create the misleading impression that Customer C's father had been present during the assessment, when you knew he had remained in the waiting room.

The panel took into account your admission on charge 5 in that you wrongly recorded in the ESA medical report form that Customer C was accompanied by their father who was present during the assessment.

You told the panel that you knew that Customer C was not accompanied by their father during the assessment but that their father was sitting in the waiting room. However, you stated that you had clicked on the wrong option on the drop-down menu as you were rushing to complete the form.

The panel also had regard to the free typing section of the report submitted by you for Customer C, which included:

> "[They] *attended the assessment today with* their *father who had driven to the centre."*

The panel considered your evidence regarding the error in the drop-down section. It did not accept your explanation that it was just a clicking error. The panel noted that you had an opportunity to rectify the error in the free- typed section in the report. It took into account that you made a specific statement in the report indicating that Customer C attended the assessment with their father, rather than accurately reporting that the father escorted them to the centre and was in the waiting area. The panel determined that this statement created a deliberately misleading impression that the father was physically present in the assessment, rather than waiting in the designated waiting room, which was a fact that you accepted being aware of.

In light of the above, on the balance of probabilities, the panel found your conduct in charge 6 was dishonest according to the standards of ordinary decent people.

Charge 8

> 8)Your conduct in charge 7 was dishonest in that you deliberately sought to create the misleading impression that Customer D attended the assessment centre with their friend and that their friend was present during the assessment when you knew they had attended the assessment centre with their baby only.

In answering questions, you stated that this report had options for both drop-down and free typing. You said that you had made another mistake by writing that their friend was present during the assessment. You said that you knew that that Customer D came with their baby only and that you should have written that it was you who prompted Customer D during the assessment and not the friend. You also said that you had written that because Customer D must have told you that they were with their friend. During cross examination, you were asked that if someone was marginal whether you could *buff them up or down*, you answered that you must have *buffed them up*.

The panel had regard to the timetable for the assessment centre dated 16 January 2019, which showed that Customer D was with their baby. The panel had regard to the drop-down section of the report submitted by you for Customer D, where it stated: *“The*

client was accompanied by their friend, who was present during the assessment." The panel also had regard to the free-typed section for Adapting to Change -Supporting Medical Evidence of the report submitted by you for Customer D, where it stated: *"The client was accompanied by their friend, who was present during the assessment."* In addition, the panel had regard to the free-typed section under Assessment Summary of the report submitted by you for Customer D, where it stated: "[They] *attended the assessment today with* their *friend and they travelled to the centre by train…due to* their *anxiety* [they] *never goes anywhere alone…*[they] *were anxious during the assessment and needed support from* [their] *friend to answer the questions…"*

The panel considered your evidence that you mistakenly selected the wrong option in the drop-down section and then further mistakenly wrote friend in the free typed section. The panel noted that other than the drop-down section you had mentioned two more times about the presence of a friend. The panel determined that you had two opportunities to rectify the error including the free-typed section. It took into account that you made a specific statement in the report indicating that Customer D needed support from their friend and that they do not go anywhere alone, rather than accurately reporting that Customer D attended the assessment centre with their baby only. The panel determined that this statement created a deliberately misleading impression that Customer D attended the assessment centre with their friend and that their friend was present during the assessment when you knew they had attended the assessment centre with their baby only.

In light of the above, on the balance of probabilities, the panel found your conduct in charge 8 was dishonest according to the standards of ordinary decent people.

Charge 10

10)Your conduct in charge 9 was dishonest in that you deliberately sought to create the misleading impression that Customer E attended the assessment centre with their brother and that their brother was present during the assessment when you knew they had attended the assessment centre alone.

This charge is found NOT proved.

The panel took into account your admission on charge 9 in that you wrongly recorded in the ESA medical report form that Customer E was accompanied by their brother who was present during the assessment.

The panel took into account your evidence that you wrongly recorded the brother's attendance, which was an error on your part. You said that Customer D told you that their brother had come with them and that the brother was in the waiting room, and you had accepted what you had been told.

The panel determined there is insufficient evidence to support the NMC's case that you knew that Customer D came to the assessment centre alone. There is no evidence that you were aware that the brother was not in the waiting room.

Therefore, on the balance of probabilities, charge 10 is found not proved.

Charge 12)

12. Your conduct in charge 11 was dishonest in that you deliberately sought to create the misleading impression that Customer F attended the assessment centre with their friend and that their friend was present during the assessment when you knew they had attended the assessment centre alone.

This charge is found proved.

The panel took into account your admission on charges 11a) and 11b) that you wrongly recorded in the ESA medical report form of Customer F, that they attended the assessment centre with a friend who was present during the assessment and that their friend tried to encourage them to answer but that it was a struggle due to their anxiety.

In respect of charge 11a) You said in evidence that you accepted that you wrongly recorded that Customer F was with a friend. However, you stated that it was a clicking

error as you were not able to concentrate properly, and you were rushing to complete the form because it was a very busy day.

In respect of charge 11b) you told the panel that you wrongly recorded that Customer F's friend tried to encourage them to answer whereas in fact it was you who supported Customer F in answering the questions as they were struggling with anxiety. You said that you must have written that because Customer F must have mentioned their friend. You later told the panel that there was no option to record that you supported Customer F. The panel rejected this explanation on the ground that this was included in the section which was completed by free typing.

The panel had regard to the timetable for the assessment centre dated 30 January 2019, which showed that Customer F came alone. The panel had regard to the drop-down section of the report submitted by you for Customer F, where it stated: "The *client was accompanied by their friend, who was present during the assessment."* You also had written in the free typed section that *"[Their] friend tried to encourage [them] to answer but this was a struggle due to [their] anxiety."* In addition, the panel had regard to the free-typed section under *Limited Capability for Work and Work Related Activity* of the report submitted by you for Customer F, where you stated that: "[They] *attended the assessment today with* [their] *friend and they walked to the centre…[they] needed prompting to answer the questions being asked as [they] had poor concentration. [Their] friend helped [them] with this…"*

The panel considered your evidence that you mistakenly selected the wrong option in the drop-down section and then further mistakenly wrote '*friend*' in the free-typed section. The panel noted that other than the drop-down section you had mentioned two more times about the presence of a friend. The panel determined that if this was an error, you had an opportunity to rectify the error in the free-typed section, but you failed to take that opportunity. The panel noted that during cross examination you accepted that you knew that Customer F came alone to the assessment centre and despite that you had mentioned twice about the friend in the free-typed area. In answer to the question of whether what you did was a conscious or subconscious error, you said a bit of both.

Therefore, the panel determined that your statement in the report deliberately created a misleading impression that Customer F attended the assessment centre with their friend and that their friend was present during the assessment when you knew they had attended the assessment centre alone.

In light of the above, on the balance of probabilities, the panel found your conduct in charge 12 was dishonest according to the standards of ordinary decent people.

Charge 14)

> 14)Your conduct in charge 13 was dishonest in that you deliberately sought to create the misleading impression that Customer G attended the assessment centre with their niece and that their niece was present during the assessment when you knew they had attended the assessment centre alone.

The panel took into account your admission on charges 13a) and 13b) in that you wrongly recorded in the ESA medical report form of Customer G, that they attended the assessment centres with their niece who attended the assessment and that they needed lots of support from their niece.

In respect of charge 13a), you said in evidence that you accepted that you wrongly recorded that Customer G was with their niece. You also said that you did not know that Customer G attended alone and that you thought their niece was in the waiting room.

However, you stated you might have written that in error because Customer G was very anxious and was constantly talking about their niece.

In respect of charge 13b), you told the panel that you wrongly recorded that Customer G needed support from their niece whereas in reality you were the one who supported Customer G as they were anxious. You said that you must have written that because Customer G was constantly speaking about their niece and that later you did not check your report.

The panel had regard to the interview notes dated 26 March 2019, where you stated that you did it to make the right decision and not to defraud anyone. You also said that *"No point in lying, I am not the only person who does it, everyone does it."*

The panel had regard to the timetable for the assessment centre dated 30 January 2019, which showed that Customer G was the last appointment. The panel had regard to the drop-down and free typed section of the report submitted by you for Customer G, where it stated that: "*The client was accompanied by their niece, who was present during the assessment."* In addition, the panel had regard to the free-typed section under *Personalised Summary Statement* of the report submitted by you for Customer G, where it stated: "[They] *attended the assessment today with* [their] *niece who drove to the centre and they walked from the car park which took 5 minutes…Mental state assessment showed [they] was very anxious throughout the assessment and needed support from [their] niece to answer the questions…" Furthermore, the panel noted your words in the report where you said that. [they] was observed to walk using one crutch 10 metres to the assessment room. [They] had no problems sitting and rising from the chair. [They] carried a light bag in both hands."*

The panel considered your evidence that you mistakenly selected the wrong option in the drop-down section and then mistakenly wrote '*niece*' in the free-typed section due to work pressure. The panel noted that you also mentioned the presence of their niece a further three times in the free-typing section. It also noted that during cross examination you accepted that you knew that Customer G came alone to the assessment room and that you referred to the niece because it saved you time. The panel took into account your report which suggested that you had observed Customer G for a long time and that it would be hard to not notice whether Customer G was accompanied or not given that you were closely examining their mobility in the waiting area before returning to the assessment room.

On the balance of probabilities, the panel concluded that knowing Customer G attended the assessment centre alone you deliberately sought to create a misleading impression

that Customer G attended the assessment centre with their niece and that the niece was present during the assessment.

In light of the above, the panel found your conduct in charge 14 was dishonest, according to the standards of ordinary decent people.

The hearing resumed on 13 March 2024

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Metwalli was not in attendance and that the Notice of Hearing letter had been sent to Mrs Metwalli's registered email address by secure email on 12 February 2024.

Mr Malik, on behalf of the Nursing and Midwifery Council (NMC), submitted that it 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 Mrs Metwalli's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all of the information available, the panel was satisfied that Mrs Metwalli 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 Mrs Metwalli

The panel next considered whether it should proceed in the absence of Mrs Metwalli. It had regard to Rule 21 and heard the submissions of Mr Malik who invited the panel to continue in the absence of Mrs Metwalli. He submitted that Mrs Metwalli had voluntarily absented herself.

Mr Malik referred the panel to the email from Mrs Metwalli, dated 12 March 2024, which stated:

'… [PRIVATE]

I am happy (as one can be in this situation) for the hearing to go ahead. It has been over 5 years now since this started and I want it over with now. I would like for you to inform the panel that it is not because I do not want to engage because I do [PRIVATE]...'

Mr Malik submitted that Mrs Metwalli had voluntarily absented herself and has not applied for an adjournment. He submitted that adjourning the hearing today would be unlikely to secure her attendance at a future date. Mr Malik submitted that there is a strong public interest in proceeding with the case. Given the circumstances, Mr Malik invited the panel to proceed in the absence of Mrs Metwalli.

The panel accepted the advice of the legal assessor, who referred it to the guidance in *Adeogba v GMC* [2016] EWCA Civ 162 and *R* v *Jones (Anthony William)* (No.2) [2002] UKHL 5.

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*.

The panel has decided to proceed in the absence of Mrs Metwalli . In reaching this decision, the panel has considered the submissions of Mr Malik, the email from Mrs Metwalli, and the advice of the legal assessor. It has had particular regard to the factors

set out in the decision of *R v Jones* and *General Medical Council v Adeogba* 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 Mrs Metwalli;
- Mrs Metwalli has informed the NMC via email that she has received the Notice of Hearing and confirmed that she is content for the hearing to proceed in her absence;
- During discussion at the previous hearing regarding the resuming dates, Mrs Metwalli pointed out that she would not be able to join the hearing given her [PRIVATE]. She also expressed that she was content for the hearing to proceed in her absence as this case has been going for five years which she also confirmed in her recent communication with the NMC.
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- The charges relate to events that occurred in 2019; and
- There is a strong public interest in the expeditious disposal of the case.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mrs Metwalli. The panel will draw no adverse inference from Mrs Metwalli's absence.

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 Mrs Metwalli'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 ability to practise kindly, safely and professionally.

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, Mrs Metwalli's fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct and impairment

Mr Malik provided the panel with written submissions as follows:

1. *We invite the panel to take the view that the facts found proved amount to misconduct. The Registrant admitted charges 1, 3, 5, 7, 9, 11a), 11b), 13a) and 13b). All the other charges apart from Charge 10 have been found proved.*
2. *The Panel will be aware that the professional standards of practice and behaviour for nurses, midwives and nursing associates sets the professional standards that patients and public tell the NMC that they expect.*
3. *The panel will be familiar with the leading case of Roylance v GMC [1999] UKPC 16 where Lord Clyde provided guidance when considering what could amount to misconduct.*

   '[331B-E] Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a [Nurse] practitioner in the particular circumstances'.

4. *Further assistance may be found in the comments of* ***Jackson J in Calhaem v GMC [2007] EWHC 2606 (Admin)*** *and* ***Collins J in Nandi v General Medical Council [2004] EWHC 2317 (Admin)****:*

   "[Misconduct] connotes a serious breach which indicates that the [nurse's] fitness to practise is impaired"

   and

"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".

5. *The NMC assert that here, Ms Metwalli's, acts, falls short of the standards set out in The Code: Professional standards of practice and behaviour for nurses and Midwives (2015) ("The Code")*

6. *Due to Ms Metwalli falling short of "the Code", what she did, we say, amounts here to serious professional misconduct.*
7. *Practising effectively and upholding the nursing profession is a fundamental nursing responsibility and it was the professional duty of Ms Metwali to ensure that she acted in a manner that was appropriate for a nursing professional.*
8. *The Panel have already fully reviewed the evidence and it is not necessary to recite all of the facts here. However, I would draw your attention that the panel found that on the balance of probabilities the Registrant knew that Customer A had come alone, and knowing that, she recorded wrongly that Customer A was accompanied in order to create a deliberately misleading impression.*
9. *The panel found 6 charges of dishonesty proved. We say the dishonesty raises fundamental concerns about the Reg's trustworthiness as a registered professional.*

10. *Ms Metwalli's actions demonstrate a pattern of sustained dishonest and unprofessional behaviour. Dishonest Conduct goes against the spirit of the NMC code and can be difficult to remediate.*
11. *The misconduct is a serious departure from the Code, and fellow practitioners would consider such a departure deplorable.*
12. *The misconduct is serious because honesty and integrity are fundamental tenets of the profession. The public expect nurses to be trustworthy and ensure reports made are recorded honestly and accurately.*
13. *The panel will be aware that seriousness is an important concept which informs various stages of our regulatory processes. The public's trust and confidence in all nurses, demonstrating the behaviour found by Ms Metwalli here must, we assert, amount to a serious misconduct.*

"The Code" (2015)

14. *The NMC say that "The Code" has been breached. We would suggest that the following particular areas of the code being engaged are;*

15. ***Section 10 – Keep clear and accurate records relevant to your practice***

This applies to the records that are relevant to your scope of practice. It includes but is not limited to patient records.

To achieve this, you must:

10.1 complete records at the time or as soon as possible after an event, recording if the notes are written some time after the event

10.2 identify any risks or problems that have arisen and the steps taken to deal with them, so that colleagues who use the records have all the information they need

10.3 complete records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements

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 integrity at all times, treating people fairly and without harassment

16. *I would respectfully ask the panel to bear in mind its overarching objective to protect the public and the wider public interest. This includes the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body.*

Impairment

17. *The Panel are now considering whether Ms Metwalli's fitness to practise 'is impaired' (Art 22(1)(a) of the Nursing and Midwifery Order 2001).*

18. Impairment is not defined in the legislation.

19. There have been many legal cases which have developed the concept of impairment and the factors that should be considered when deciding whether a professional's fitness to practise is impaired. The question that will help decide whether a professional's fitness to practise is impaired is:

"Can the nurse, midwife or nursing associate practise Kindly, safely and professionally?"

20. Consideration has been given to the nature of the concern by looking at the factors set out by Dame Janet Smith in her Fifth Report from Shipman, approved in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) by Cox J;

A summary is set out in the case at paragraph 76 in the following terms:

"Do our findings of fact in respect of the [nurse'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:

i. *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*
ii. *has in the past brought and/or is liable in the future to bring the [nursing] profession into disrepute; and/or*
iii. *has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the [nursing] profession;*
iv. *has in the past acted dishonestly and/or is liable to act dishonestly in the future*

21. We say all 4 limbs of grant are engaged by the circumstances of this case.

22. If the Panel make the decision on the facts that Misconduct is found. The panel will next be deciding whether the professional's fitness to practise is impaired. The NMC represent that this question is answered positively. The NMC represent that the professional's fitness to practise is impaired particularly by way of D above, Dishonesty. [Sic]

Limb i

23. *Although Ms Metwalli's actions haven't put patients at unwarranted risk of harm, falsifying records could have caused psychological harm and distress to the patient's family. In the absence of full insight and remediation the risk of repetition and future harm remains.*

    Limbs ii and iii

24. *Miss Metwalli's actions have brought the nursing profession into disrepute and she has breached fundamental tenets of the nursing profession by failing to promote professionalism and trust (not keeping to and upholding the standards and values as set out in The Code) and acting in a thoroughly dishonest manner.*

25. *Registered professionals occupy a position of trust in society. The public, quite rightly, expects nurses to provide safe and effective care, and conduct themselves in a way that promotes trust and confidence. The conduct that has been admitted in this case undermines the public's trust and confidence in the profession and could result in patients, and members of the public, being deterred from seeking nursing assistance when needed.*

    Limb iv

26. *The NMC considers that there is a continuing risk to both public protection and the wider public interest due to Miss Metwalli's actions which are directly linked to her clinical practice and dishonesty in this case. On several occasions documenting in the reports that claimants were accompanied to their appointments, when in fact they had attended assessment centre alone which is a difficult element to remediate. Her behaviour raises fundamental concerns about her attitude as a registered professional and Ms Metwallil has failed to address and put right the issues raised. The behaviour also demonstrates serious breaches of trust and abuse of authority. Further the concerns demonstrate fundamental dishonesty which undermines or completely erodes public trust and confidence in the profession.*

27. *A decision about whether a professional's fitness to practise is impaired takes a holistic approach, so that anything that's relevant is considered. It is dependent on the individual circumstances surrounding each concern.*

28. *The panel will no doubt ask themselves if any part of the CODE has been breached or is liable to be breached in the future. Any breach would be considered alongside other relevant factors.*
29. *The NMC refer the panel to the earlier concerns on the breaches of the CODE.*
30. *The NMC say that the breaches of the Code involve breaching a fundamental tenet of the profession, the Panel would be entitled to conclude that a finding of impairment is required in Ms Metwalli's case. The finding of impairment, the NMC assert, is required to mark the unacceptability of the behaviour, emphasise the importance of the fundamental tenet breached, and to reaffirm proper standards or behaviour (see Yeong v GMC [2009] EWHC 1923 (Admin)* Hamer para 36.07).

Remorse, reflection, insight, training and remediation

31. *With regard to future risk, the panel are invited to consider the comments of* ***Silber J in Cohen v General Medical Council [2008] EWHC 581 (Admin)*** *namely (i) whether the concerns are easily remediable; (ii) whether they have in fact been remedied; and (iii) whether they are highly unlikely to be repeated.*
32. *The failings involved in this case are directly linked to her clinical practice and attitudinal. They relate to dishonest conduct and a breach of the duty of candour, and are therefore more difficult to remediate. The NMC's guidance entitled* ***"Serious concerns which are more difficult to put right (FTP-3a)"*** *lists breaching the professional duty of candour to be open and honest when things go wrong as a concern that is so serious that it may be less easy for a nurse, midwife or nursing associate to put right the conduct.*
33. *The NMC's guidance entitled* ***"Insight and strengthened practice (FTP-13)****" states "Evidence of the nurse, midwife or nursing associate's insight and any steps they have taken to strengthen their practice will usually be central to deciding whether their fitness to practise is currently impaired".*
34. *The panel should consider to what extent Ms Metwalli had reflected upon events and had demonstrated insight into what happened, together with steps taken to remediate the concerns. Ms Metwalli submitted a reflection statement to the panel, and maintains that she did not intend to deliberately mislead or deceive.* [PRIVATE].

35. *I would remind the panel that during the initial interview, Ms Metwalli claimed that the error was a mistake due to not reviewing her reports and selecting wrong options and using a copy and paste function. However, according to paragraph 6 of* [Witness 1's] *witness statement and paragraph 5 of the investigation report, she later went on to suggest in the same interview that she had made the selection to "speed up the decision process", that she knew that this was not the right thing to do, and that she should not have falsified the reports.*

36. *As such, the misconduct is not easily remediable. Breaching the professional duty of candour includes covering up or falsifying records when things go wrong. It is further submitted that the concerns have not been remediated and are therefore highly likely to be repeated should Ms Metwalli be permitted to practise as a nurse again.*

37. *I would highlight to the panel that the Registrant attended virtually to make part admissions at the door of the final hearing when witnesses had been warned to attend and case was fully prepared. The Registrant denied all the dishonesty charges. There is no evidence that she has addressed or taken steps to address any concerns or risks identified in the case.*

Public protection impairment

38. *A finding of impairment is necessary on public protection grounds as the misconduct in this case is serious and there remains a risk of repetition of the relevant misconduct due to Miss Metwalli's limited insight and lack of remediation. The panel found six dishonesty allegations of fabricating information in six disability assessment reports. We say this could have serious implications on the integrity of the benefit report system and is all the more serious because it was directly linked to her clinical practice. Therefore, the risk of unwarranted harm to the public remains, as explained above.*

Public interest impairment

39. *A finding of impairment is also necessary on public interest grounds.*

In accordance with ***Article 3(4) of the Nursing and Midwifery Order 2001*** *("the Order") the overarching objective of the NMC is the protection of the*

*public and **Article 3(4A)** provides:*

"The pursuit by the Council of its overarching objective involves the pursuit of the following objectives-

a) to protect, promote and maintain the health, safety and well-being of the public;

b) to promote and maintain public confidence in the professions regulated under this Order; and

c) to promote and maintain proper professional standards and conduct for members of those professions."

*40. The case of **Grant** acknowledges that, in order to protect the public there must be a separate consideration of the wider relevant public interest issues. Cox J stated at para 71:*

"*It is essential, when deciding whether fitness to practise is impaired, not to lose sight of the fundamental considerations … namely, the need to protect the public and the need to declare and uphold proper standards of conduct and behaviour so as to maintain public confidence in the profession*"

41. At paragraph 101 of **Grant** Cox J commented that:

"*The Committee should therefore have asked themselves not only whether the Registrant continued to present a risk to members of the public, but whether the need to uphold proper professional standards and public confidence in the Registrant and in the profession would be undermined if a finding of impairment of fitness to practise were not made in the circumstances of this case*".

42. Consideration of the public interest therefore requires the Fitness to Practise Committee to decide whether a finding of impairment is needed to uphold proper professional standards and conduct and/or to maintain public confidence in the profession.

43. A finding of impairment is necessary on public interest grounds in this case. Breaching the professional duty of candour by falsifying records is deplorable and amounts to serious misconduct. The conduct of Ms Metwalli has brought the

nursing profession into disrepute and served to undermine public confidence and trust in the profession.

44. *The dishonesty occurred in her workplace. This raises fundamental questions about her integrity and trustworthiness as a registered professional and seriously undermines public trust in nurses, midwives and nursing associates. Whilst the overall advice was correct, the wider concern was that the she had knowingly been recording something within a report that was not true in order to make justifying her medical opinion easier.*

For these reasons the NMC say that Ms Metwalli's practice is currently impaired.'

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 Mrs Metwalli's actions did fall significantly short of the standards expected of a registered nurse, and that her actions amounted to a breach of the Code. Specifically:

'10.3 complete records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements]

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 and without discrimination, bullying or harassment.'

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel determined that falsifying records with the intention

of giving the impression that the clients had been accompanied in the assessment centre, when Mrs Metwalli knew that they were not, were serious failings.

The panel determined that Mrs Metwalli falsified records and acted dishonestly on six occasions when submitting assessment reports. The panel also determined that during the assessment process Mrs Metwalli had opportunities to check and rectify those incorrect records, but she failed to do so. In the panel's judgement, Mrs Metwalli's actions were deliberate and dishonest. It further determined that Mrs Metwalli's conduct individually and cumulatively breached the fundamental tenets of the Nursing profession and therefore brought its reputation into disrepute. The panel therefore determined that Mrs Metwalli's conduct fell significantly short of the standards expected of a registered nurse and is sufficiently serious to amount to misconduct.

Decision and reasons on impairment

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

Nurses and midwives 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 determined that limb a) was not engaged as this is more relevant to clinical risks whereas Mrs Metwalli's misconduct concerned her actions in conducting benefit assessment. The panel considered that limbs b), c) and d) of *Grant* are engaged in this case. It considered that Mrs Metwalli brought the reputation of the profession into disrepute with her actions, and, by acting dishonestly, breached fundamental tenets of the profession in the past. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty serious. The panel noted that Mrs Metwalli was an experienced nurse and there was an

expectation that she should have known what was expected of her and what the responsibilities of her role required.

The panel is aware that this is a forward-looking exercise and accordingly, it went on to consider whether Mrs Metwalli's misconduct was remediable and whether it had been remediated. The panel then considered the factors set out in the case of *Cohen v GMC* [2007] EWHC 581 (Admin).

The panel considered that Mrs Metwalli had shown insufficient insight during the hearing. She had not admitted the charges relating to dishonesty and six of those charges were proved.

Regarding insight, the panel considered Mrs Metwalli's reflective statements in connection with this hearing. The panel was of the view that Mrs Metwalli has demonstrated insufficient insight and has not accepted the impact her actions had on the benefit assessment process and how they impacted negatively on the reputation of the nursing profession. Whilst admitting entering incorrect information in the assessments, she did not admit dishonesty and has not addressed this issue with sufficient insight. Following the panel's finding of facts on charges of dishonesty Mrs Metwalli requires to reflect more carefully on that aspect of the charges which were found proved.

The panel decided that the misconduct was difficult to remedy because it involved dishonesty and was attitudinal, in that she sought to manipulate to assessment process in her own interest. Her purpose was to speed up the process in order to achieve the number of assessments required for each day.

The panel carefully considered the evidence before it in determining whether or not Mrs Metwalli has taken steps to strengthen her practice. The panel noted that it would be difficult for Mrs Metwalli to demonstrate strengthened practice when she has been found to be dishonest. The panel noted that Mrs Metwalli was working as a nurse with no new issues, and no issues prior to the incident which are the subject of this case. She has provided evidence of good record keeping in subsequent work situations and has

completed further training in record keeping. However, the panel decided that this training did not directly relate to dishonesty.

The panel took account of her [PRIVATE], and the fact that she also found the work environment pressurised at the time of the charges.

The panel is of the view that based on her insufficient insight into her actions there is a risk of repetition. Therefore, the panel 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.

In the circumstances, the panel determined that a finding of impairment on public interest grounds is required. The panel was of the view that any suitably informed member of the public would find Mrs Metwalli's actions in fabricating records with the intention of deliberately misleading a benefit assessment authority to be extremely concerning.

In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore finds Mrs Metwalli's fitness to practise impaired on the grounds of public interest.

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

Sanction

The panel has considered this case very carefully and has decided to make a suspension order for a period of six months. The effect of this order is that the NMC

register will show that Mrs Metwalli's registration has been suspended. In reaching this decision, the panel has 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. The panel accepted the advice of the legal assessor.

Submissions on sanction

Mr Malik informed the panel that in the Notice of Hearing, the NMC had advised Mrs Metwalli that it would seek the imposition of a striking-off order if it found Mrs Metwalli's fitness to practise currently impaired.

He outlined what the NMC considered to be the aggravating and mitigating features of this case. With regards to the aggravating features, he submitted that Mrs Metwalli's dishonesty is directly related to her clinical practice. He also submitted that this was sustained dishonest conduct and that it is difficult to put right the attitudinal concerns. With regards to the mitigating features, Mr Malik submitted that the NMC acknowledged her engagement with the NMC proceedings. He submitted that Mrs Metwalli has shown some remorse in her reflective statements. However, he submitted that the remorse was more focused on the impact of Mrs Metwalli's personal life rather than considering the impact of her actions on the reputation of the nursing profession.

Mr Malik invited the panel to assess the available sanctions in the ascending order from least restrictive first. He submitted that no further action or a caution order would not be appropriate or proportionate given that dishonesty is a serious matter and Mrs Metwalli is impaired on both public protection and public interest grounds.

Mr Malik submitted that a conditions of practice order would not be a suitable sanction for this case. He submitted that conditions of practice order are more suited to cases where there are identifiable areas of clinical concerns so that the nurse can be supported to return to safe practice. However, Mr Malik submitted that in this case there was no evidence of any clinical concerns nor was there any evidence of direct harm as result of Mrs Metwalli's misconduct.

Mr Malik submitted that a suspension order is not appropriate as the conduct in this case is incompatible with continued registration. In this case, the concerns raised are serious with deep-seated attitudinal issues. Mr Malik submitted that this was not an isolated incident or one-off event and Mrs Metwalli's insight is limited. Therefore, he submitted that there is a risk of repetition.

Mr Malik invited the panel to the impose a striking-off order. Mr Malik referred to the SG (SAN- 3e) and submitted that Mrs Metwalli's actions were a significant departure from the standards expected of a registered nurse, and are fundamentally incompatible with her remaining on the register. He submitted that the panel has concluded in the impairment stage that Mrs Metwalli's has shown insufficient insight during the hearing. He further submitted that Mrs Metwalli did not admit the charges relating to dishonesty and six of those charges were found proved.

Mr Malik highlighted the dishonesty in this case. The dishonesty did not occur in a moment of panic and immediate regret but was a sustained course of conduct which was only brought to an end when she was found out by her employers. Additionally, he submitted that Mrs Metwalli had the opportunity at the start of this hearing to admit the dishonesty charges, but she failed to do so.

Finally, Mr Malik submitted that in all the circumstances, a striking-off order is the only appropriate and proportionate order. The nature and seriousness of Mrs Metwalli's misconduct had called into question her integrity and professionalism. Mr Malik maintained that the concerns in this case are difficult to put right and constitute a serious breach of nursing standards. Therefore, Mr Malik submitted that Mrs Metwalli's actions were serious and to allow her to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

Decision and reasons on sanction

Having found Mrs Metwalli'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:

- Falsification of records.
- Abuse of a position of trust.
- Lack of insight into her dishonesty.
- Six different occasions of misconduct over a short period of time.

The panel also took into account the following mitigating features:

- Mrs Metwalli had engaged with the NMC throughout a lengthy period of case investigation and preparation, and attended the first part of the hearing. She admitted to all the charges which did not involve dishonesty.
- She apologised for her failings and took steps to address the concerns regarding her record keeping.
- Mrs Metwalli has provided extensive positive testimonials and references to the panel.
- Mrs Metwalli went on to work in a role in difficult circumstances during COVID-19 and there was no history of any incidents in her 26 years of practice apart from those covered by the charges.
- There was no personal financial gain to Mrs Metwalli resulting from her actions.
- [PRIVATE].
- [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. 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 involving dishonesty, an order that does not restrict Mrs Metwalli'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 Mrs Metwalli's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. 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 Mrs Metwalli's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. 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. 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 Mrs Metwalli's registration would not adequately address the seriousness of this case.

The panel then went on to consider whether a suspension order would be an appropriate sanction. It had regard to the following factors:

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*
- *The Committee is satisfied that Mrs Metwalli does not pose a significant risk of repeating the behaviour.*

The panel was satisfied that in this case, Mrs Metwalli's misconduct was not fundamentally incompatible with remaining on the register.

The panel considered that Mrs Metwalli's dishonesty was serious and that it was done principally to increase productivity in her work. However, the panel was satisfied that it was not done for Mrs Metwalli's personal financial gain, but partly to help some of her vulnerable clients. The panel noted that, although Mrs Metwalli's dishonesty was not a single one-off incident, it was confined to the last two weeks of January 2019. The panel bore in mind that the overall context of Mrs Metwalli's dishonesty included [PRIVATE].

The panel did not accept that her conduct was connected to her clinical practice, and no patients were put at risk of harm.

Consequently, the panel considered Mrs Metwalli's dishonesty in this case to be at the lower end of the spectrum. The panel found that Mrs Metwalli requires more time to fully develop her insight into the concerns regarding dishonesty.

The panel went on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, the mitigation in this case along with the panel's assessment of the level of seriousness of Mrs Metwalli's dishonesty, it concluded that a striking off order would be disproportionate.

Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Mrs Metwalli's case to impose a striking-off order. The panel determined that the period of six months suspension will allow her time for further reflection on the concerns highlighted and for her insight to develop.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction. The panel noted the hardship such an order will inevitably cause Mrs Metwalli. However, this is outweighed by the public interest in this case.

The panel considered that this order is 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.

In making this decision, the panel took into account the submissions of Mr Malik in relation to the sanction bid of a striking-off order that the NMC was seeking in this case. However, in light of the above, it determined that a suspension order for a period of six months with a review is appropriate to mark the seriousness of the misconduct.

At the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Mrs Metwalli's attendance at the review hearing;
- An up-to-date reflective piece, following the panel's finding of facts on charges of dishonesty to demonstrate that Mrs Metwalli has developed her insight into the importance of honesty and integrity;
- Testimonials from a line manager or supervisor at her current employment that detail Mrs Metwalli's current work practices; and
- Any evidence of Mrs Metwalli's professional development to demonstrate the steps she has taken to keep her nursing practice up to date.

Interim order

As the suspension 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 Mrs Metwalli's own interests until the suspension sanction takes effect.

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

Submissions on interim order

The panel took account of the submissions made by Mr Malik. He invited the panel to make an interim suspension order for a period of 18 months to cover any appeal period until the substantive suspension order takes effect. He said that such order is necessary to protect the public and declare and uphold proper standards of conduct for the same reasons as the substantive suspension order, until such time until the substantive suspension order can take effect, and to cover the period of any potential appeal.

Decision and reasons on interim order

The panel decided that it was not necessary to impose an interim order. It had regard to the seriousness of the matters found proved. However, the panel concluded that in this case there is no evidence of risk of harm to patients.

The order can only be made where it is necessary to do so.

The panel concluded that in this case it is not necessary to impose an interim order either for public protection or in the public interest.

The panel considered that public confidence in the nursing profession would not be seriously undermined if no interim order is imposed in this case pending any potential appeal. It noted that Mrs Metwalli had been practicing as a nurse for substantial period since these events occurred in 2019. The panel took into account that the dishonesty proved in this case was at the lower end of the spectrum.

Accordingly, the panel concluded that it would be disproportionate to impose an interim suspension order for a period of up to 18 months to allow for any appeal to be determined. The panel considered that any public interest considerations in this case will be suitably and adequately addressed by the imposition of the substantive order.

This will be confirmed to Mrs Metwalli in writing.

That concludes this determination.