

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

**Substantive Hearing  
Wednesday 14 February 2024**

Virtual Hearing

<b>Name of Registrant:</b>	<b>Jackline Wills</b>
<b>NMC PIN:</b>	20C2790E
<b>Part(s) of the register:</b>	Registered Nurse – Sub Part 1 Mental Health Nursing – September 2020
<b>Relevant Location:</b>	England, Altrincham
<b>Type of case:</b>	Misconduct
<b>Panel members:</b>	Richard Youds (Chair, Lay member) Jillian Claire Rashid (Registrant member) Alison Lyon (Lay member)
<b>Legal Assessor:</b>	Michael Levy
<b>Hearings Coordinator:</b>	Hazel Ahmet
<b>Nursing and Midwifery Council:</b>	Represented by Sophia Ewulo, Case Presenter
<b>Miss Wills:</b>	Not present and not represented at the hearing
<b>Consensual Panel Determination:</b>	Accepted
<b>Facts proved:</b>	Charges 1, 2, 3, 4, 5, 6 and 7 (by admission)
<b>Fitness to practise:</b>	Impaired
<b>Sanction:</b>	Strike-off
<b>Interim order:</b>	<b>Interim Suspension Order (18 months)</b>

## **Decision and reasons on service of Notice of Hearing**

The panel was informed at the start of this hearing that Miss Wills was not in attendance and that the Notice of Hearing letter had been sent to Miss Wills' registered email address by secure email on 11 January 2024.

Further, the panel noted that the Notice of Hearing was also sent to Miss Wills' representative at the Royal College of Nursing (RCN) also on 11 January 2024.

Ms Ewulo, 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, date and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Miss Wills' 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 Miss Wills 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 Miss Wills**

The panel next considered whether it should proceed in the absence of Miss Wills. It had regard to Rule 21 and heard the submissions of Ms Ewulo who invited the panel to continue in the absence of Miss Wills. She submitted that Miss Wills had voluntarily absented herself.

Ms Ewulo informed the panel that a provisional Consensual Panel Determination (CPD) agreement had been reached and signed by Miss Wills on 5 February 2024.

Ms Ewulo also referred the panel to the documentation from Miss Wills' representative at the Royal College of Nursing (RCN), which acknowledged receipt of the notice of hearing.

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 Miss Wills. In reaching this decision, the panel has considered the submissions of Ms Ewulo, the representations made on Miss Wills' behalf, 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* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- Miss Wills has engaged with the NMC and has signed a provisional CPD agreement which is before the panel today;
- There is no reason to suppose that adjourning would secure her attendance at some future date; 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 Miss Wills.

## **Details of charge**

*'That you, a registered mental health nurse, whilst working at [PRIVATE] ('the Hospital') Between [PRIVATE];*

*1) Following Patient A liking your profile on 'Tinder' used words to the effect 'We will have to see, when you get out of here.'*

*2) Provided Patient A your 'Instagram' username.*

*3) On one or more occasion sent messages to Patient A using 'Instagram' without any clinical justification.*

*4) On one or more occasion sent messages to Patient A using 'Instagram' which were of an inappropriate/sexual nature, as set out in schedule 1;*

*5) On 9/10 April 2022 whilst Patient A was on overnight leave as an in-patient at the Hospital;*

*a) Met with Patient A on Bank Hall Lane;*

*b) Had a meal in Manchester with Patient A;*

*c) Visited an arcade centre with Patient A;*

*d) Allowed Patient A to spend the night at your home address;*

*e) Engaged in intimate/sexual activity with Patient A.*

*6) On 16 April 2022 after Patient A had been discharged from the Hospital;*

*a) Spent the day with Patient A shopping/going to the park.*

*b) Allowed Patient A to sleep over at your home address;*

*c) Engaged in intimate/sexual activity with Patient A.*

*7) On 17 April 2022 went to a restaurant in Manchester with Patient A*

*8) On 20 April 2022;*

*a) Went for a meal in Stoke on Trent with Patient A.*

*b) Allowed Patient A to spend the night in a hotel room you had booked.*

*And in light of the above your fitness to practise is impaired by reason of your misconduct.'*

### **Decision and reasons on application to amend the charge**

The panel heard an application made by Ms Ewulo, on behalf of the NMC, to amend the wording of the charge at the outset.

The proposed amendment was to remove the section of the charge describing Miss Wills' place of work as the [PRIVATE]. It was submitted by Ms Ewulo, that the proposed amendment would provide clarity and more accurately reflect the evidence, as Miss Wills was not working at the [PRIVATE] for the entirety of the stated period. Rather, Miss Wills also worked elsewhere as a mental health nurse.

The proposed amendment is as follows:

*'That you, a registered mental health nurse, whilst working at [PRIVATE] (~~the Hospital~~) Between 11 March and 27 April 2022 [...]*

The panel accepted the advice of the legal assessor and had regard to Rule 28 of the Rules.

The panel was of the view that such an amendment, as applied for, was in the interest of justice. The panel was satisfied that there would be no prejudice to Miss Wills and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore appropriate to allow the amendment, as applied for, to ensure clarity and accuracy.

**Therefore, the charge will now read as follows:**

*'That you, a registered mental health nurse, whilst working between 11 March and 27 April 2022 [...]*

### **Consensual Panel Determination**

At the outset of this hearing, Ms Ewulo informed the panel that a provisional agreement of a Consensual Panel Determination (CPD) had been reached with regard to this case between the NMC and Miss Wills.

Ms Ewulo submitted that Miss Wills has no previous fitness to practise history.

The agreement, which was put before the panel, sets out Miss Wills' full admissions to the facts alleged in the charges, that her actions amounted to misconduct, and that her fitness to practise is currently impaired by reason of that misconduct. It is further stated in the agreement that an appropriate sanction in this case would be a striking-off order.

The panel has considered the provisional CPD agreement reached by the parties.

That provisional CPD agreement reads as follows:

***'The facts***

1. *Miss Wills appears on the register of nurses, midwives and nursing associates maintained by the NMC as a Registered Mental Health Nurse and has been on the NMC register since 28 September 2020.*
2. *Miss Wills worked for the [PRIVATE] ('the Referrer') as an Agency Nurse at [PRIVATE] ('the Hospital'), employed through Search Consultancy ('the Agency'). She had previously been a permanent member of staff but resigned and returned via the Agency in early 2022.*
3. *Patient A was admitted to [PRIVATE] ('the Hospital') [PRIVATE] as an inpatient on a 28-day addiction programme. [PRIVATE].*
4. *In his first week of admission at the Hospital, Patient A 'liked' Miss Wills' profile on the dating site Tinder. The following day or soon thereafter Miss Wills asked Patient A if he had been the person who liked her profile, which he confirmed. In response, Miss Wills said words to the effect of 'Well we will have to see, when you get out of here.' Over the next two weeks Patient A and Miss Wills chatted regularly when he would collect his medication. Around the end of March 2022 Miss Wills informed Patient A that she would be working at another hospital and would no longer see him. Patient A then asked for Miss Wills' social media profile for the application 'Instagram', and she helped him find her on it.*
5. *On 22 March 2022 Patient A sent Miss Wills a message on Instagram at 23.06 hours with the 'pair of eyes' emoji and an 'x'. Miss Wills responded with the same two minutes later. At 23.27 hours she sent Patient A, a message which read 'Not going to lie, you're one of the most attractive guys I've seen in a long time. That smile and them dimples [heart eyes emoji] x'. Miss Wills and Patient*

*A then began to correspond regularly on the app, exchanging approximately 20 messages a day.*

- 6. Miss Wills' last shift at the Hospital was on 8 April 2022. She and Patient A continued to communicate on Instagram after Miss Wills' last shift, until around 27 April 2022. The messages included those of a romantic/sexual nature, as set out in Schedule 1 above.*
- 7. During the course of the relationship, Patient A and Miss Wills went out socially and entered into a sexual relationship. In the evening of 9 April 2022/early hours of 10 April 2022, whilst Patient A was on overnight leave from the Hospital, he and Miss Wills, went out for a meal in Manchester, and visited an arcade centre. That night Patient A stayed at Miss Wills' home, and they engaged in intimate/sexual activity.*
- 8. On 16 April 2022, after Patient A's discharge, he and Miss Wills spent the day shopping/going to the park. Patient A then slept at Miss Wills' home, where they again engaged in intimate/sexual activity. The following day, Miss Wills and Patient A went together to a restaurant in Manchester.*
- 9. On 20 April 2022, Miss Wills had been scheduled to work in Stoke-on-Trent and thus had a hotel booked. Patient A accompanied Miss Wills to Stoke-on-Trent, where they went for a meal and Patient A spent the night in the hotel room Miss Wills had booked. On 27 April 2022, Miss Wills ended the relationship with Patient A.*
- 10. On 5 May 2022, at an outpatient clinic appointment, Patient A informed his consultant, [Dr 1], that he was feeling of low mood and suicidal following the breakdown of his relationship with Miss Wills. He told [Dr 1] that the relationship with Miss Wills had started whilst he was an inpatient at the Hospital and had continued after Patient A's discharge between 31 March and 29 April 2022, until it was ended by Miss Wills. [Dr 1] promptly escalated the*



*matter and on 27 May 2022, the NMC received a referral from the Referrer with reference to the allegations. The Referrer also reported the matters to the police and Agency and commenced an internal investigation.*

- 11. After the relationship ended Patient A's mental health seriously deteriorated [PRIVATE]. At the end of May 2022, Patient A was arrested for harassment of Miss Wills. He was taken by the police to the local Accident & Emergency department and briefly held under Section 136 of the Mental Health Act, before being bailed. Patient A was re-admitted to the Hospital as an inpatient [PRIVATE]. He cited the relationship breakdown with Miss Wills and his arrest pertaining to harassment of her and reported feeling very depressed. He was treated with an increase in antidepressants and Cognitive Behavioural Therapy. [Dr 1]'s clinical opinion is that the effects of the police investigation and the stress of the relationship breakdown between him and Miss Wills exacerbated Patient A's depression*
- 12. During the local investigation, Patient A provided the Referrer with a statement detailing his relationship with Miss Wills and provided his Instagram 'chat log' of correspondence with her.*
- 13. Miss Wills provided the Agency with an email in response to the allegations, in which she denied being in a relationship with Patient A but acknowledged that he had stayed at her home. She stated that she had ceased communication with Patient A on 28 April 2022. She also provided a statement, dated 20 May 2022, in which she acknowledged that she had provided Patient A with her Instagram 'handle', communicated with him on the app, gone out socially with Patient A e.g., to the arcade, park, and restaurants, that he had stayed at her home overnight on more than one occasion, and stayed at her hotel in Stoke-on-Trent. Miss Wills again denied that she had been in a relationship with Patient A.*

14. On 16 January 2024, through her representatives, the Royal College of Nursing ('RCN'), Miss Wills admitted the charges in full.

### **Misconduct**

15. Lord Clyde in Roylance v General Medical Council (1999] UKPC 16 provides guidance when considering what could amount to misconduct:

*'[3318-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'.*

16. Further assistance may be found in the comments of Jackson J in R (Ca/haem) v General Medical Council (2007] EVVHC 2606 (Admin) and Collins J in Nandi v General Medical Council (2004)EWHC 2317 (Admin) respectively:

*'[Misconduct] connotes a serious breach which indicates that the doctors (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 practitioner.*

17. At the relevant time, Miss Wills was subject to the provisions of **The Code: Professional standards of practice and behaviour for nurses and midwives (2015)** ("the Code"). It is agreed that the following provisions of the Code have been breached in this case:

## **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*

**20.3** *be aware at all times of how your behaviour can affect and influence the behaviour of other people*

**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*

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

18. *The Parties agree that the facts amount to misconduct. The misconduct in this case relates to concerns a particularly grave breach of professional boundaries.*
19. *Miss Wills' initial contact with Patient A was by virtue of her privileged access to vulnerable patients as a Registered Mental Health Nurse, and she was aware of his mental health condition(s). As per the Council for Healthcare Regulatory Excellence's guidance 'Clear sexual boundaries between healthcare professionals and patients: responsibilities of healthcare professionals' (January 2008) and Health Education England's 'Professional Boundaries' (February 2021) module, there is an inherent power imbalance in a nurse-patient relationship, which dictates that nurses must maintain professional boundaries. This is primarily to protect the patient's interests but also protects those of the registered professional. Even the suspicion that professional boundaries are being breached is corrosive to public trust. It is*

*not uncommon for patients to attempt to breach boundaries. The responsibility is on the practitioner to avoid and escalate any actual or potential breach of professional boundaries.*

20. *When the lines between personal and professional relationships become blurred it significantly undermines the confidence in the relationship, both as between the nurse and the patient and between the patient and their wider clinical team with whom they may feel they do not have a 'special' relationship. When professional boundaries are not clear it can have a deleterious effect on a patient's mental health. The risk of harm is exacerbated where the patient is vulnerable. This risk was realised in this case, as evidenced by the harm suffered by Patient A who suffered subsequent deterioration in his mental health, resulting in contact with the police and a further admission to the Hospital.*

21. *Over a period of nearly 7 weeks, Miss Wills pursued an inappropriate relationship with Patient A when she was fully aware of his vulnerabilities due to his mental health and that her actions were improper. She repeatedly sent him messages of a sexual nature. On more than one occasion, she went out with him socially, allowed him to sleep at her home, and engaged in intimate and/or sexual activity with him.*

22. *Miss Wills' failings are therefore serious and fall short of what would be expected of a registered nurse in the circumstances. The areas of concern identified relate to basic nursing knowledge and fundamental tenets of the profession. These failings are likely to cause risk to patients in the future if they are not addressed.*

### ***Impairment***

23. *Miss Wills' fitness to practise is currently impaired by reason of her misconduct.*

24. The NMC's guidance at DMA-1 explains that impairment is not defined in legislation but is a matter for the Fitness to Practise Committee to decide. 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?"*

25. *If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired. Answering this question involves a consideration of both the nature of the concern and the public interest.*

26. *Registered professionals occupy a position of privilege and trust in society and are always expected to be professional. Patients and families must be able to trust registered professionals with their lives and the lives of their loved ones, especially those who are vulnerable. Registered professionals must therefore always act with integrity.*

27. *The parties agree that consideration of the nature of the concern involves 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) 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 professions 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 professions; and/or*

d) *Has in the past acted dishonestly and/or is liable to act dishonestly in the future?*

28. *The Parties have also considered the comments of Cox J in Grant at paragraph 101:*

*"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."*

29. *In this case, limbs (a), (b), and (c) are engaged. Miss Wills entered an inappropriate and sexual relationship with a vulnerable patient whom she had known for a short period of time and was receiving treatment for his mental health conditions. She did not report Patient A's initial advances, nor the subsequent relationship to her superiors. Miss Wills repeatedly exchanged messages of a sexual nature with Patient A via social media, both during and after her employment at the Hospital and during and after Patient A's admission, using her personal social media account, and without clinical justification. On more than one occasion, she engaged in intimate/sexual activity with Patient A.*

30. *Maintenance of professional boundaries is a fundamental tenet of nursing. Breaches of professional boundaries place patients at unwarranted risk of harm e.g., psychological harm. Miss Wills abused her position of trust, and her actions constituted a breach of trust placed in her as a registered professional. Her actions are likely to bring the reputation of the profession into disrepute. They also caused actual physical and mental harm to Patient A*

31. *Impairment is a forward-thinking exercise which looks at the risk the*

registrant's practice poses in the future. NMC guidance adopts the approach of Silber J in the case of R (on application of Cohen) v General Medical Council (2008] EWHC 581 (Admin) by asking the questions whether the concern is easily remediable, whether it has in fact been remedied and whether it is highly unlikely to be repeated.

32. The NMC's guidance titled 'Serious concerns which are more difficult to put right' provides that some concerns are so serious that it may be less easy for the registered professional to put right the conduct or aspect of their attitude which led to the incident(s) happening. One criterion that causes a concern to qualify as such is 'sexual assault or relationships with patients in breach of guidance on clear sexual boundaries.' The Parties agree this case falls within this category.
33. The Parties therefore conclude that, in line with the guidance, while this conduct is less likely to be remediated solely through training and supervision, if it is to be remediated then evidence that Miss Wills has participated in steps to strengthen her practise will be essential. Such steps will include, but are not limited to, extensive training on professional boundaries, safeguarding vulnerable patients, and a reflective piece to demonstrate an understanding of the misconduct committed.

Remorse, reflection, insight, training and strengthening practice

34. The Parties next considered if Miss Wills has reflected and taken opportunities to show insight into what happened. Although at a local level Miss Wills partially denied the allegations, on 16 January 2024 via the RCN, Miss Wills admitted the charges in full and conceded that her fitness to practise is impaired. The Parties therefore consider that in accepting the charges Miss Wills has demonstrated some, albeit extremely limited, insight.
35. Whilst Miss Wills has not provided the NMC with a substantive response to

*the charges, in her local statement dated 20 May 2022, Miss Wills wrote:*

*"I am fully aware of the seriousness of my actions, and I am not denying that I have acted completely out of line in terms of my professionalism. I have never acted out of line in any job role or ever received any form of disciplinary action, in my whole working career.*

*I am not making excuses for my actions, and I understand I will be held accountable. I apologise to anyone I may have impacted during this time."*

36. *However, it is agreed Miss Wills' insight is limited in that she has not demonstrated an appreciation for the power imbalance in the nurse-patient relationship with Patient A, which underpins the impropriety in her exchanging messages of a sexual nature through her personal social media account, going out socially, allowing him to stay at her home, and engaging in intimate/sexual activity with him. She has also not demonstrated an appreciation for the seriousness of the harm that her actions had on Patient A, and the risk of the public's confidence in the profession being undermined.*
37. *Whilst she expressed remorse for her actions, she did not express remorse for the impact of her actions on Patient A, nor did she provide an analysis of why she behaved the way she did. Miss Wills appears to express regret for some of her actions and acknowledges that they were wrong, but it is agreed she has not shown sufficient insight as to why her actions were wrong. In the circumstances, the Parties agree that the risk of repetition therefore remains high.*
38. *Miss Wills has been subject to an Interim Suspension Order since 15 June 2022 and therefore has not worked as a registered nurse since this date.*
39. *Miss Wills has provided the NMC with a certificate of continuing*



*professional development, dated 16 May 2023, for an online training course on professional boundaries. However, the Parties agree that a single two-hour online training course is insufficient to address the misconduct in this case and mitigate the risk of repetition.*

*Public protection impairment*

40. *A finding of impairment is necessary on public protection grounds.*

41. *In the absence of evidence of full insight and remediation, and based on the serious nature of the concerns, Miss Wills is liable in the future to put patients at unwarranted risk of harm were she to practise without any restrictions.*

*Public interest impairment*

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

43. *In Grant at paragraph 74 Cox J commented that:*

*"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 circumstance<sup>5</sup>.*

44. *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.*

45. *In upholding proper professional standards and conduct and maintaining*

*public confidence in the profession, the Fitness to Practise Committee will need to consider whether the concern is easy to put right. For example, it might be possible to address clinical errors with suitable training. A concern which hasn't been put right is likely to require a finding of impairment to uphold professional standards and maintain public confidence.*

- 46. However, there are types of concerns that are so serious that, even if the professional addresses the behaviour, a finding of impairment is required either to uphold proper professional standards and conduct or to maintain public confidence in the profession. It is agreed that this is one such case.*
  
- 47. The public expect nurses to behave professionally and in a manner that justifies the trust and confidence placed in them. The public's confidence would be undermined if a finding of impairment was not made with reference to a nurse who, over a period of nearly 7 weeks, had exchanged messages of a sexual nature through their personal social media account with a vulnerable patient that said nurse had met in a treatment facility, gone out socially with the patient, allowed the patient to stay at their home, and engaged in intimate and/or sexual activity with the patient.*
  
- 48. A finding that Miss Wills' fitness to practise is also impaired on public interest grounds is therefore necessary.*
  
- 49. For the reasons above, Miss Wills' fitness to practise is currently impaired by reason of her misconduct, on both public protection and public interest grounds.*

### **Sanction**

- 50. The appropriate sanction in this case is a **striking off order**.*
  
- 51. The NMC's guidance ([SAN-2](#)) on cases involving sexual misconduct provides that:*

*'Sexual misconduct will be particularly serious if the nurse, midwife or nursing associate has abused a special position of trust they hold as a registered caring professional... The level of risk to patients will be an important factor, but the panel should also consider that generally, sexual misconduct will be likely to seriously undermine public trust in nurses, midwives and nursing associates.*

*Panels deciding on sanction in cases about serious sexual misconduct ... will very often find that in cases of this kind, the only proportionate sanction will be to remove the nurse, midwife or nursing associate from the register'.*

52. *The Parties have considered the **NMC's** guidance (SAN-3c) to assist with the determination of the appropriate sanction.*

53. *The following aggravating features are present in this case:*

- *Patient A was vulnerable by virtue of his mental health condition(s) and an inpatient at a treatment facility when he met Miss Wills, who was part of his clinical team. Miss Wills' actions therefore constitute a breach of professional boundaries/abuse of position of trust.*
- *The misconduct took place over a period of nearly 7 weeks.*
- *The misconduct indicates deep-seated attitudinal and behavioural issues on the part of Miss Wills.*
- *Miss Wills engaged in sexual activity with Patient A, the sexual activity continued after Miss Wills' dismissal.*
- *The relationship caused Patient A psychological and physical harm.*

54. *In taking the available sanctions in ascending order, the Parties first*

considered whether to **take no action or make a caution order**. It is agreed that neither of these sanctions would be appropriate in view of the seriousness of Miss Wills' actions, the need to protect the public, and the need to declare and uphold proper standards of conduct.

55. Imposing a **Conditions of Practice Order** would not be appropriate. Miss Wills' misconduct is attitudinal in nature and the risk of repetition remains high. There are no workable conditions that could be formulated to adequately address the concerns. This sanction would not reflect the seriousness of the misconduct, therefore public confidence in the professions and professional standards would not be maintained.

56. Imposing a **Suspension order** would not be sufficient to protect the public. Whilst the guidance at SAN-3d indicates that the misconduct in this case is sufficiently serious to warrant temporary removal from the register, such an order would be appropriate where there is "a single incidence of misconduct ...", "no evidence of harmful deep-seated personality or attitudinal problems" and "the Committee is satisfied that the nurse, midwife or nursing associate has insight and does not pose a significant risk of repeating behaviour". Neither of those factors apply in the present case. A Suspension order would not reflect the seriousness of the misconduct. Therefore, public confidence in the profession and professional standards would not be maintained.

In any event, a **Striking-Off Order** is the appropriate sanction in this case.

57. Miss Wills demonstrated a pattern of misconduct by entering and continuing an inappropriate sexual relationship with a vulnerable patient, when she was fully aware of his vulnerabilities, resulting in a deterioration in Patient A's mental health and relapse into substance misuse of cocaine. Her actions raise fundamental concerns surrounding Miss Wills' professionalism and trustworthiness and is fundamentally incompatible with being a registered

*professional. Only a Striking- Off Order will be sufficient to protect patients, maintain public confidence in the profession and maintain professional standards.*

### **Referrer's comments**

*58. On 15 January 2024 the NMC emailed the Referrer for comments on the CPD agreement. A response was received on 16 January 2024, advising that as Patient A's initial disclosure was made to [Dr 1] in the outpatients' clinic, they believed he would be best placed to respond The NMC wrote to [Dr 1] on 16 January 2024. In his response dated 22 January 2024, [Dr 1] reserved comment and deferred to the panel's authority.*

### **Interim order**

*59. An 18-month interim order is required in this case to cover the eventuality of an appeal by Miss Wills. The substantive order will not come into effect until some 28 days after the hearing and should Miss Wills lodge an appeal within the relevant period, the substantive order would not come into effect pending a resolution of the appeal. This would permit Miss Wills to practise without restriction during this time and would therefore fail to take account of public protection and public interest considerations. It is agreed that an interim suspension order is required for a period of 18 months because it is likely to take that amount of time for the appeal to be heard.*

*The Parties understand that this provisional agreement cannot bind a panel, and that the final decision on findings impairment and sanction is a matter for the panel. The parties understand that, in the event that a panel does not agree with this provisional agreement, the admissions to the charges and the agreed statement of facts set out above, may be placed before a differently constituted panel that is determining the allegation, provided that it would be relevant and fair to do so.'*

Here ends the provisional CPD agreement between the NMC and Miss Wills. The provisional CPD agreement was signed by Miss Wills on 5 February 2024, and by the NMC on 6 February 2024.

### **Decision and reasons on the CPD**

The panel decided to accept the CPD.

The panel heard and accepted the legal assessor's advice. Ms Ewulo referred the panel to the 'NMC Sanctions Guidance' (SG) and to the 'NMC's guidance on Consensual Panel Determinations'. She reminded the panel that they could accept, amend or outright reject the provisional CPD agreement reached between the NMC and Miss Wills. Further, the panel should consider whether the provisional CPD agreement would be in the public interest. This means that the outcome must ensure an appropriate level of public protection, maintain public confidence in the professions and the regulatory body, and declare and uphold proper standards of conduct and behaviour.

The panel noted that Miss Wills admitted the facts of the charges. Accordingly, the panel was satisfied that the charges are found proved by way of Miss Wills admissions, as set out in the signed provisional CPD agreement.

### **Decision and reasons on impairment**

The panel then went on to consider whether Miss Wills fitness to practise is currently impaired. Whilst acknowledging the agreement between the NMC and Miss Wills, the panel has exercised its own independent judgement in reaching its decision on impairment.

In respect of misconduct, the panel determined that this case does amount to serious professional misconduct. The panel acknowledged and accepted the sections of the

'Code' set out within the CPD agreement and determined that all of these sections had been breached.

In this respect, the panel endorsed paragraph 22 of the provisional CPD agreement in respect of misconduct.

The panel then considered whether Miss Wills' fitness to practise is currently impaired by reason of misconduct. The panel took into account the fact that the specifics of Miss Wills' misconduct was particularly serious, planned and repeated. Miss Wills' conduct breached the fundamental tenets of the nursing profession and her trusted role as a nurse. The panel considered the fact that Miss Wills continued her misconduct for 7 weeks, and initiated the relationship with Patient A.

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which states:

*'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?"*

*If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired.'*

The panel determined that Miss Wills' fitness to practise is currently impaired and took into account the provisional CPD agreement.

The panel determined that Miss Wills has shown very limited insight and remorse and has not acknowledged the full impact of her misconduct on her colleagues and the nursing profession. The panel determined that Miss Wills is likely to repeat her actions and has not recognised the negative impact of her misconduct on Patient A.

The panel considered the fact that a well-informed member of the public would be expect a nurse who has had such charges proved, to have their fitness to practise found impaired.

The panel determined that Miss Wills' fitness to practise is impaired both on public protection and public interest grounds and agreed with the CPD.

### **Decision and reasons on sanction**

Having found Miss Wills' 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 agreed with the CPD and took into account the following aggravating features:

- *Patient A was vulnerable by virtue of his mental health condition(s) and an inpatient at a treatment facility when he met Miss Wills, who was part of his clinical team. Miss Wills' actions therefore constitute a breach of professional boundaries/abuse of position of trust.*
- *The misconduct took place over a period of nearly 7 weeks.*
- *The misconduct indicates deep-seated attitudinal and behavioural issues on the part of Miss Wills.*
- *Miss Wills engaged in sexual activity with Patient A, the sexual activity continued after Miss Wills' dismissal.*
- *The relationship caused Patient A psychological and physical harm.*

The panel also noted that the consequences for Patient A, as a result of this misconduct, were particularly serious, as they suffered a significant decline in health and was also



arrested for related matters.

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, and the public protection issues identified, an order that does not restrict Miss Wills 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 Miss Wills 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 Miss Wills' registration would be a sufficient and appropriate response. 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 Miss Wills' 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;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Miss Wills' actions is fundamentally incompatible with Miss Wills remaining on the register.

In this particular case, the panel determined that 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?*

Miss Wills' actions were significant departures from the standards expected of a registered nurse and are fundamentally incompatible with her remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Miss Wills' actions were extremely serious and to allow her to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

The panel considered the fact that Miss Wills has demonstrated deep-seated attitudinal problems, and her misconduct resulted in serious deterioration of Patient A's health.

Balancing all of these factors, and after taking into account all the evidence before it during this case, the panel agreed with the CPD that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the matters it identified, in particular the effect of Miss Wills' actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct herself, the panel has concluded that nothing short of this would be sufficient in this case.

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 Miss Wills in writing.

### **Decision and reasons on 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 Miss Wills' own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

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 agreed with the CPD 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.

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

That concludes this determination.