

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

**Substantive Hearing  
Monday 5 February 2024 – Tuesday 6 February 2024**

Virtual Hearing

<b>Name of Registrant:</b>	<b>Stacey Jessica Nurrish</b>
<b>NMC PIN</b>	15K2403E
<b>Part(s) of the register:</b>	Registered Nurse – Sub Part 1 Adult Nursing – Level 1 16 September 2016
<b>Relevant Location:</b>	Birmingham
<b>Type of case:</b>	Misconduct
<b>Panel members:</b>	Elliott Kenton (Chair, Lay member) Mary Karasu (Registrant member) Jane McLeod (Lay member)
<b>Legal Assessor:</b>	Ben Stephenson
<b>Hearings Coordinator:</b>	Sophie Cubillo-Barsi
<b>Nursing and Midwifery Council:</b>	Represented by David Claydon, Case Presenter
<b>Sarah Jessica Nurrish:</b>	Present and unrepresented
<b>Facts proved by admission:</b>	All charges
<b>Fitness to practise:</b>	Impaired
<b>Sanction:</b>	<b>Suspension order – 12 months</b>
<b>Interim order:</b>	<b>Interim suspension order – 18 months</b>

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

At the outset of the hearing, Mr Claydon, 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 [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 to the extent that any reference to [PRIVATE] should be heard in private.

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

Having heard that reference may be made to [PRIVATE], the panel determined to go into private session as and when such issues arise. It considered that your right to privacy in relation to these matters outweighed the public interest in holding those parts of the hearing in public.

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

The panel heard an application made by Mr Claydon on behalf of the NMC, to amend the wording of charges 4, 5, 6 and 7. The proposed amendment, as set out within the agreed statement of case, was to capitalise the beginning of the charges namely:

‘4) ~~w~~**W**orked excessively in that you worked a night shift between 2200 on 1 July 2020 and 0800 on 2 July 2020 and then worked a day shift between 0800 – 1600 on 2 July 2020

5) ~~w~~**W**hen working a bank shift between 2200 on 1 July 2020 and 0800 on 2 July 2020 did not accept a call to attend a patient who required medication

6) ~~y~~Your actions in charge 5 above were dishonest in that you stated you were attending another patient when you were not

7) ~~d~~ Did not keep accurate records in that:

a) you did not enter records onto the system within 48 hours...

In response to an observation by the panel, Mr Claydon invited the panel to make a further amendment in relation to the wording of charge 8 a) to include the words 'you did not inform your employer that'. Specifically:

'8) Breached the duty of candour in that:

a) **you did not inform your employer that** you accepted 'back to back' shifts on 1 July – 2 July'

It was submitted by Mr Claydon that, in this instance, neither amendment materially affects the substance or seriousness of the charges and are intended to correct drafting errors. He further submitted that the proposed amendments do not create any unfairness to you or interfere with the NMC's overarching objective.

You indicated that you supported the application.

The panel accepted the advice of the legal assessor and had regard to Rule 28 of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel was of the view that such an amendments, as applied for, was in the interest of justice. Of its own volition, the panel decided to include the year within which charge 8 arose, namely:

'8) Breached the duty of candour in that:

a) **you did not inform your employer that you accepted 'back to back' shifts on 1 July – 2 July 2020'**

The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendments being allowed. It was therefore appropriate to allow the amendments, as applied for, to ensure clarity and accuracy.

### **Details of charge**

That you, a registered nurse:

1) [PRIVATE]

2) [PRIVATE]

3) Your conduct in charges 1 and / or 2 above was dishonest in that you misled colleagues as to your fitness to carry out nursing duties

4) Worked excessively in that you worked a night shift between 2200 on 1 July 2020 and 0800 on 2 July 2020 and then worked a day shift between 0800 – 1600 on 2 July 2020

5) When working a bank shift between 2200 on 1 July 2020 and 0800 on 2 July 2020 did not accept a call to attend a patient who required medication

6) Your actions in charge 5 above were dishonest in that you stated you were attending another patient when you were not

7) Did not keep accurate records in that:

a) you did not enter records onto the system within 48 hours

b) were unable to produce records from your night shift 1 to 2 July 2020

8) Breached the duty of candour in that:

a) You did not inform your employer that you accepted 'back to back' shifts on 1 July – 2 July 2020

b) Did not provide your employer with the notes and / or details of patients attended your night shift on 1 July 2020 – 2 July 2020

9) On or around 15 September 2020 you declared a negative covid-19 test result when you had not taken a test

10) Your actions in charge 9 above were dishonest in that:

a) you knew you had not taken a test but purported that you had

b) that you intended to and / or did misled others as to your ability to work

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

## **Background**

You appear on the register of nurses, midwives and nursing associates maintained by the NMC as a registered adult nurse and have been on the NMC register since 12 October 2016.

The charges arose during December 2019-July 2020. You were employed by the Birmingham Community Healthcare NHS Foundation Trust ('BCH') in a substantive role as a community staff nurse from 5 March 2018 until your resignation on 3 January 2020.

Although you had resigned from your substantive position, you registered with BCH as a bank worker from 4 January 2020. You were employed by the Birmingham Women's and Children's NHS Foundation Trust ('BWC') in a substantive role from 16 December 2019 until your resignation on 3 May 2020.

On 12 November 2020, BWC made a referral to the NMC in respect of you working for BWC [PRIVATE]

An investigation by the NMC found that, from 18 September 2019 until your resignation on 3 January 2020 [PRIVATE]

You began working for BWC on 16 December 2019 and failed to declare your ongoing employment with BCH at the time. [PRIVATE]

BWC [PRIVATE] commissioned KPMG to conduct a counter fraud investigation. Following an investigation KPMG concluded that you had worked seven shifts (51 hours) for BWC [PRIVATE]. It was further found that you had worked 21 shifts (132.5 hours) for BCH [PRIVATE]. It was noted however that of the 21 shifts worked for BCH, you were only paid for 15 shifts as you were recorded as having unauthorised absence for the remaining six shifts.

It was calculated by KPMG that the total financial loss for the NHS through your actions was approximately £1,739.68, of which £631.55 was owed to BCH, and £1,108.31 was owed to BWC.

Further, on 27 November 2020, BCH made a referral to the NMC in respect of concerns surrounding your working patterns, your records keeping, and your honesty. These concerns related to the period where you were working as a bank worker for BCH.

Following a further investigation by the NMC it was found that in June 2020, your line manager received an initial complaint about your record keeping, in that you had failed to submit patient visit outcomes or diary sheets on BCH's electronic record keeping system. It is BCH policy that these should be submitted within 48 hours. These concerns were raised as a consistent concern by your manager for your bank work at BCH, and you acknowledged this was a problem you needed to address.

On the night of 1-2 July 2020, you were working a night shift between 22:00 and 08:00. In the course of this shift at approximately 06:57 a relative of Patient A, an end-of-life

patient, called BCH to request assistance as Patient A was presenting with pain. You were called in response but told the call handler that you could not attend as you were dealing with another patient. You asked for the patient to be passed on to the day services who started at 08:00.

Patient A was seen at 08:10 and died later that day. BCH confirm there was no record of you seeing a patient at this time. There were no records from your night shift of 1-2 July 2020 at all.

Directly following your night shift for BCH on 1-2 July 2020, you accepted a day shift from 08:00 – 16:00. In the course of your shift you declined seeing a patient at 14:00 because you stated that you were finishing at 16:00 and were extremely tired. BCH asked you to produce the diary sheets for the night shift of 1-2 July 2020 but you were unable to provide these. You told BCH that you had made handwritten notes during the course of your shift, but had subsequently been unable to locate these notes.

On 15 September 2020, you were booked to work a bank shift for BCH. On 14 September 2020, you texted stating that you had Covid-19 symptoms and would be undertaking a PCR test. Later that same day, you texted to say you had received your test results back, which were negative, and you would therefore be able to work.

However, on 17 September 2020, you texted a colleague stating:

*"[Colleague A], I am unable to work today. [PRIVATE] I stupidly said to [Colleague B] I have had 1 but I hadn't as I just wanted to get back to work and thought it wud of been ok [PRIVATE] but I now know I have to wait. So I will be in touch when I eventually get a test xx".*

### **Decision and reasons on facts**

At the outset of the hearing, you informed the panel that you made full admissions to all charges.

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

In light of your oral admissions, and your written admissions made by you within your Case Management Form (CMF), the panel finds charges 1 - 10 proved in their entirety.

### **Fitness to practise**

The panel then moved on to consider, whether the facts admitted amount to misconduct and, if so, whether your fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's 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 admitted amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, your fitness to practise is currently impaired as a result of that misconduct.

### **Submissions on misconduct**

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

Mr Claydon invited the panel to take the view that the facts admitted amount to misconduct. He referred the panel to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015)' (the Code). Mr Claydon



identified the specific, relevant standards where your actions amounted to misconduct, namely:

***'1 Treat people as individuals and uphold their dignity***

*1.4 make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay*

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

*3.2 recognise and respond compassionately to the needs to those who are in the last few days and hours of life*

***10 Keep clear and accurate records relevant to your practice***

*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*

*10.5 take all steps to make sure that records are kept securely*

***19 Be aware of, and reduce as far as possible, any potential for harm associated with you practice***

*19.1 take measures to reduce as far as possible, the likelihood of mistakes, near misses, harm and the effect of harm if it takes place*

*19.4 take all reasonable personal precautions necessary to avoid any potential health risks to colleagues, people receiving care and the public*

***20 Uphold the reputation of your profession at all times***

*20.1 keep to and uphold the standards and values set out in the code*

*20.2 act with honest and integrity at all times, treating people fairly and without discrimination, bullying or harassment*

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

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

Mr Claydon submitted that your behaviour, as outlined in the charges, is unacceptable. He reminded the panel that you are charged with being dishonest. Mr Claydon stated that your behaviour resulted in a degree of harm to a patient, causing the patient unnecessary harm and distress. Mr Claydon further submitted that your behaviour was deliberate and serious and that, whilst you have provided some mitigation, there can be no excuse for your behaviour and invited the panel to find that the charges amount to serious misconduct.

You admit that your behaviour within charges 1, 2, 3, 5, 6, 9 and 10 amount to misconduct. You do not accept your behaviour, as outlined within charges 4, 7 and 8, amount to misconduct.

**Submissions on impairment**

Mr Claydon moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Mr Claydon submitted that your actions, including your dishonesty, placed patients at an unwarranted risk of harm. He further submitted that, the admitted charges have brought the nursing profession into disrepute and consequently undermined the reputation of the nursing profession.

Mr Claydon invited the panel to find that your insight is developing and that, to your credit, you have acknowledged the situation you now find yourself in. However, he submitted that the panel may be minded to find that your account of the events do not 'properly align' with the evidence in your case.

Mr Claydon submitted that, in the absence of any sufficient insight and remediation, there is a real and significant risk of your past conduct being repeated should a finding of impairment not be made at this time. He therefore invited the panel to find that your fitness to practice is currently impaired on public protection grounds.

In relation to public interest, Mr Claydon submitted that the concerns clearly constitute matters so serious that a finding of impairment is needed to uphold professional standards and to do otherwise would undermine public confidence and trust in the regulatory process and the NMC as a regulator.

When addressing the issue of impairment, you gave evidence to the panel under affirmation. In relation to you working back-to-back shifts, you told the panel that as the shifts were with the same Trust, you wrongly assumed that you were allowed to work this shift pattern. You stated that it was your belief that the Trust was aware of the hours you were working.

In relation to charge 5, you explained that when you received a call about the patient, you were caring for another palliative care patient but handed the matter over to another member of the team on the day shift. You told the panel that you did not intentionally leave the patient in pain and that, due to your previous employment, you understood the importance of palliative care patients receiving their medication.

[PRIVATE] You acknowledged that it was a 'silly thing' to do and acknowledged how your behaviour can be considered dishonest.

When questioned, you accepted that you should not have worked a double shift and that you should have been aware of the Trust's policy in this regard. You told the panel that doing so resulted in you being tired and not giving the best care you could. You

acknowledged the importance of keeping records up to date in order to communicate effectively with other members of staff. You told the panel that you now realise the importance of honesty within the workplace, not just for the patients but for yourself too.

You informed the panel that you would love to go back to nursing and have since learned that you need to be honest and open at all times with other members of staff and management, communicating with others if you are facing any problems. You recognised the importance of reading policies and procedures in more detail and now understood that you should not work 'too many hours' in order to practise safely and effectively. You explained that you would also seek support and training when required. When questioned further, you told the panel that your mindset is now 'totally different' [PRIVATE]

When questioned by the panel, in relation to charge 5, you stated that when receiving a new referral you would usually receive an email or a phone call and that the system RIO would be used as an electronic way of recording your visits to patients. You stated that after finishing a shift it would be normal practice to go onto RIO and document the times and the care provided to the patient. You stated that this was often completed by an administrative staff member but that, on night shifts, it would be the responsibility of the nurse to update the records. You confirmed that on an evening shift, it was normal practice to work in 'pairs'.

You were asked by the panel why, in your view, charges 4, 7 and 8 did not amount to misconduct. You were not able to provide a sufficient answer in this regard. You were also asked by the panel why, in your view, your fitness to practise was not impaired by virtue of charges 4, 7 and 8. You stated that you were not aware that you were not allowed to work back-to-back shifts [PRIVATE]

In relation to the issues of misconduct and impairment, the panel heard and accepted the advice of the legal assessor.

## **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. It determined that your actions amounted to a breach of the Code. Specifically:

### ***'1 Treat people as individuals and uphold their dignity***

*1.4 make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay*

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

*3.2 recognise and respond compassionately to the needs to those who are in the last few days and hours of life*

### ***10 Keep clear and accurate records relevant to your practice***

*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*

*10.5 take all steps to make sure that records are kept securely*

### ***19 Be aware of, and reduce as far as possible, any potential for harm associated with you practice***

*19.1 take measures to reduce as far as possible, the likelihood of mistakes, near misses, harm and the effect of harm if it takes place*

*19.4 take all reasonable personal precautions necessary to avoid any potential health risks to colleagues, people receiving care and the public*

### ***20 Uphold the reputation of your profession at all times***

*20.1 keep to and uphold the standards and values set out in the code*

*20.2 act with honest and integrity at all times, treating people fairly and without discrimination, bullying or harassment*

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

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel determined the following with regards to the charges found proved:

**1) [PRIVATE]**

**2) [PRIVATE]**

**3) Your conduct in charges 1 and / or 2 above was dishonest in that you misled colleagues as to your fitness to carry out nursing duties'**

When making a decision as to whether charges 1, 2 and 3 amount to misconduct, the panel acknowledged that at the time the charges arose, you were experiencing difficult personal circumstances. Nevertheless, the panel determined that working for one Trust, [PRIVATE] was serious and that your dishonest behaviour allowed you to obtain a financial gain. The panel was of the view that honesty and integrity are fundamental tenets of the nursing profession and determined that your failure to act with honesty and integrity, as found proved at charges 1, 2 and subsequently charge 3, fell significantly short of the standards expected of a registered nurse and therefore amounted to serious misconduct.

***'4) worked excessively in that you worked a night shift between 2200 on 1 July 2020 and 0800 on 2 July 2020 and then worked a day shift between 0800 – 1600 on 2 July 2020'***

The panel noted that you do not accept that your actions as outlined within charge 4 amount to misconduct. It acknowledged that the charge relates to an isolated incident. However, the panel determined that as a registered nurse, you would have, or should have been aware of the dangers associated with working excessive hours and your failure to recognise these dangers, compromised the safety of patients in your care. In light of this, the panel determined that your actions, as found proved in charge 4, did fall below the standards expected of a registered nurse and therefore amounted to misconduct, albeit at the lower end of the spectrum.

***'5) when working a bank shift between 2200 on 1 July 2020 and 0800 on 2 July 2020 did not accept a call to attend a patient who required medication***

***6) your actions in charge 5 above were dishonest in that you stated you were attending another patient when you were not'***

When considering whether the above charges amount to misconduct, the panel noted your explanation that you accepted the call regarding the patient but that you did not have the capacity to care for the patient, as at that time, you were attending to another patient who was also receiving palliative care.

However, the panel was of the view that your failure to provide care to the patient fell short of the requirements expected of a registered nurse. It determined that you failed to provide care to the patient without undue delay and therefore failed to recognise and respond compassionately to the needs of that patient. Given your admission to charge 6, it is also the case that you were dishonest. In light of this the panel determined that your actions as found proved at charges 5 and 6 amounted to serious misconduct.

***'7) did not keep accurate records in that:***

***a) you did not enter records onto the system within 48 hours***

***b) were unable to produce records from your night shift 1 to 2 July 2020'***

The panel noted that you do not accept that your actions as outlined within charge 7 amount to misconduct.

The panel was of the view, that as a registered nurse, you would have, or should have been aware of the importance of completing records immediately, or as soon as possible after the event. The panel also noted that failure to keep records in a timely manner was a concern raised by your manager when working as a bank nurse which you had acknowledged. Failure to maintain records could result in patient harm and cause communication issues between yourself and colleagues. In light of this, the panel determined that your actions, as found proved at charge 7 a) and b) fell significantly short of the standards expected of a registered nurse and therefore amounted to misconduct.

***'8) Breached the duty of candour in that:***

***a) You did not inform your employer that you accepted 'back to back' shifts on 1 July – 2 July 2020***

***b) Did not provide your employer with the notes and / or details of patients attended your night shift on 1 July 2020 – 2 July 2020'***

The panel noted that you do not accept that your actions as outlined within charge 8 amount to misconduct. It acknowledged that at the time the charges arose, you were experiencing difficult personal circumstances.

Nevertheless, the panel was of the view that as a registered nurse you would have, or should have known that accepting back-to-back shifts, without any breaks, would have compromised patient safety. Further, it determined that by not providing your employer with the notes and/or details of patients you attended on your shift, you failed to act with



integrity. In light of this, the panel determined that your actions as found proved at charge 8 fell significantly short of the standards expected of a registered nurse and therefore amounted to misconduct.

***'9) On or around 15 September 2020 you declared a negative covid-19 test result when you had not taken a test***

***10) Your actions in charge 9 above were dishonest in that:***

***a) you knew you had not taken a test but purported that you had***

***b) that you intended to and / or did misled others as to your ability to work'***

When determining whether charges 9 and 10 amount to misconduct, the panel noted that the charges arose during the height of the Covid-19 outbreak pandemic. It therefore would have or should have been obvious to you that declaring a negative Covid-19 test, when you had not taken a test, would have placed patients at an unwarranted risk of harm. The panel again noted that honesty and integrity are fundamental tenets of the nursing profession and determined that your dishonest actions in failing to take necessary precautions to avoid any potential health risks to your colleagues and patients in your care, fell seriously short of the standards expected of a registered nurse and therefore amounted to misconduct.

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

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

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. 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 your misconduct placed patients at an unwarranted risk of harm and that your actions, including a number of instances of dishonesty, had breached the fundamental tenets of the nursing profession and brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

The panel acknowledged the difficult personal circumstances you were experiencing at the time the misconduct arose. [PRIVATE]

The panel noted that you admitted the facts of all of the charges and accepted that many of those charges amounted to misconduct. However, the panel determined that your insight, at this time, is limited. It did not have before it any information to demonstrate that you have fully understood the seriousness of your misconduct and the impact your misconduct had upon patients in your care, colleagues, the nursing profession and the wider public. Whilst you provided the panel with evidence that your mindset is now 'totally different' and that you were able to obtain support if needed, you were unable to elaborate in this regard. The panel did not have any evidence before it today to suggest how you would act differently should a similar situation arise again in the future. The panel considered the testimonial before it and determined that it was unclear as to whether the individual who provided the testimonial, was fully aware of the nature of the charges found proved. In any event, the testimonial did not address your honesty and/or integrity, which are the central issues in your case.

Whilst the panel acknowledged that charges of dishonesty are inherently difficult to remediate, it did not have any evidence before it of any training undertaken and/or strengthening of practice with regards to record keeping, caring for end-of-life patients nor the importance of honesty and integrity within the nursing profession. The panel was of the view that your failure to properly remediate demonstrates a failure to fully understand the seriousness of the misconduct found proved.

In the absence of any evidence demonstrating meaningful insight and relevant remediation into the misconduct found proved, the panel was of the view that at this time, there remains a risk of repetition. The panel could not be satisfied that should a

similar situation arise again within your personal life, that your misconduct including dishonesty, would not be repeated. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel determined that public confidence in the profession would be seriously undermined if a finding of impairment were not made in this case, particularly in relation to your dishonesty, and therefore also finds your fitness to practise impaired on the grounds of public interest.

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

## **Sanction**

The panel has considered this case very carefully and has decided to make a suspension order for a period of 12 months. The effect of this order is that the NMC register will show that your registration has been suspended.

## **Submissions on sanction**

Mr Claydon informed the panel that within the agreed statement of case, the NMC had advised you that it would seek the imposition of a striking off order if it was found you're your fitness to practise is currently impaired. He highlighted what, in the NMC's view, were aggravating and mitigating factors in your case.

Mr Claydon submitted that, given the seriousness of the misconduct found proved, it would not be appropriate to take no further action or to impose a caution order. He

invited the panel to find that given the level of dishonesty in your case, it would be inappropriate to impose a conditions of practice order. Mr Claydon referred the panel to the cases of *R(Williams) v Met Police* [2016] EWHC 2708 and *O v NMC* [2015] EWHC 2949. He asked the panel to carefully balance the mitigating factors in your case against the public interest of the concerns identified. Mr Claydon submitted that the only appropriate order in this case is that of a striking off order, or in the alternative, a suspension order.

You asked the panel to impose a conditions of practice order and submitted that you would be willing to comply with any conditions the panel deem appropriate. You stated that you would be happy to practise directly or indirectly supervised.

You told the panel that you are genuinely sorry for your actions and admitted that at the time the charges arose, your behaviour fell well below the standards expected of a registered nurse. [PRIVATE] You submitted that these circumstances affected your work and led to the events which has placed you in this position. [PRIVATE]

You told the panel that you love nursing and that you are a good nurse and care for patients. You also told the panel that you have now repaid the money which you fraudulently obtained. You stated that you understood that there must be consequences for your actions but asked the panel to allow you to continue nursing.

Upon questioning from the panel, you stated that you understood that a conditions of practice order may not be appropriate when misconduct relates to attitudinal concerns and if the panel were minded not to impose a conditions of practice order, it should impose a suspension order.

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

Having found your fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had

careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Your misconduct relates to multiple instances of dishonesty;
- Your misconduct was repeated over a significant period of time; and
- Your misconduct placed patients at risk of suffering harm.

The panel also took into account the following mitigating features:

- You made full admissions to all of the charges;
- At the time the charges arose, you were experiencing very difficult personal circumstances;
- You have expressed remorse for your misconduct;
- You have demonstrated developing insight; and
- You have repaid the money you fraudulently obtained.

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

Before considering any further sanctions, the panel considered the seriousness of the dishonesty found proved. The panel noted that at the time the charges arose you were experiencing difficult personal circumstances [PRIVATE] However, it determined that as a registered nurse it would have, or should have, been known to you that a nurse must act with honesty and integrity. The panel determined that as evidenced by your misconduct, you made a conscious decision to be dishonest and therefore breached a fundamental tenet of the nursing profession.

The panel was of the view that honesty and integrity is of central importance to a nurse's practice and whilst it noted that not all dishonesty is equally serious, it determined that in your case, the dishonesty found proved was very serious. Your dishonesty deliberately breached the professional duty of candour, placed patients at a risk of harm and resulted in you obtaining a financial gain.

In light of this, when considering whether placing conditions of practice on your registration would be a sufficient and appropriate response, the panel determined that there are no practicable or workable conditions that can be formulated given the nature of dishonesty found proved and the seriousness of the misconduct in your case. Whilst record keeping is an identifiable area of your practice which require retraining and/or assessment, the panel determined that such an order would not sufficiently protect the public nor address the public interest concerns identified at this time.

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

- ...'

The panel noted that the misconduct found proved did not relate to a single incident but rather that your misconduct, including dishonesty, was repeated over a number of months. [PRIVATE] The panel was persuaded that these circumstances directly influenced your behaviour [PRIVATE] However, the panel was not entirely persuaded, at this time, that your misconduct would not be repeated in the future. It determined that a suspension order would be proportionate in all the circumstances of the case as this would allow you time to demonstrate remediation into the misconduct found proved.

The panel seriously considered whether a striking-off order would be proportionate but, taking account of all the information before it, including the significant personal mitigation provided by you, your full admission to the charges including dishonesty and the remorse you have expressed during the course of this hearing, the panel concluded that it would be disproportionate. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in your case to impose a striking-off order.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction in order to protect the public at this time. The panel noted the hardship such an order will inevitably cause you. 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. The panel was of the view that a member of the public, fully informed of the evidence in this case, would be satisfied that a suspension order for a period of time would be appropriate.

The panel determined that a suspension order for a period of 12 months, with a review before expiry, was appropriate in this case to mark the seriousness of the misconduct found proved. This period will allow you to develop your insight and demonstrate remediation into the concerns identified.



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, including a striking off order.

Any future panel reviewing this case would be assisted by:

- Your attendance at the review hearing;
- [PRIVATE]
- Testimonials from current and/or previous employers, attesting to your honesty and integrity;
- A reflective piece demonstrating insight into the misconduct found proved, including your dishonesty, and how your actions and behaviour affected colleagues, patients in your care and the public confidence in the nursing profession; and
- Any evidence of professional development focused on areas of concerns found proved, including honesty and record keeping.

This will be confirmed to you in writing.

### **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 your 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 Claydon who invited the panel to impose an interim suspension order in order to cover any potential appeal period. He

submitted that such an order was necessary for the protection of the public and was otherwise in the public interest.

You made no positive submissions in this regard.

### **Decision and reasons on interim order**

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

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore decided to impose an interim suspension order for a period of 18 months in order to cover any potential appeal period.

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

That concludes this determination.