

**Fitness to Practice Committee**

**Substantive Meeting**

**7 October 2019**

Nursing and Midwifery Council 2 Stratford Place, Montfichet Road, London, E20 1EJ

**Name of Registrant Nurse:** Mrs Trudi Jane Watson

**NMC PIN:** 89F0546E

**Part(s) of the register:** Registered Nurse – Sub Part 1  
Adult Nursing – May 1993  
Children’s Nursing – May 1993

**Area of Registered Address:** England

**Type of Case:** Misconduct

**Panel Members:** Graham Park (Chair Lay member)  
Tanya Tordoff (Registrant member)  
Peter Swain (Lay member)

**Legal Assessor:** Jeremy Barnett

**Panel Secretary:** Calvin Ngwenya

**Facts proved:** 1, 2 and 3 (in their entirety)

**Facts not proved:** None

**Fitness to practise:** Impaired

**Sanction:** Striking-off Order

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

### **Decision on Proof of Service:**

The panel was informed that the notice for this substantive meeting had been sent by recorded delivery and first class post to Mrs Watson's address on the NMC Register on 30 August 2019. The notice of meeting indicated that the meeting for her case would take place on or after 7 October 2019.

The panel heard and accepted the legal assessor's advice.

In the light of the information available, the panel was satisfied that the notice of the meeting had been sent to Mrs Watson no fewer than 28 days before the date of this meeting. The panel was satisfied that notice had been served in accordance with Rules 11A and 34 of *The Nursing and Midwifery Council (Fitness to Practise) Rules Order of Council 2004 (as amended February 2012)* ('the Rules').

Mrs Watson (the Registrant) faces the following allegations:

### **Details of charges:**

That you, a registered nurse:

1. Whilst working as a Lead First Aid and Attendance Officer at Oakwood High School:

a) Between April 2015 and December 2016, told one or more of your colleagues that you had cancer when this was not the case;

b) Submitted a letter dated 24 October 2016 containing information which was not accurate as you were not a patient at Weston Park Hospital under the care of Mr Hatton for breast cancer;

c) Confirmed in a meeting on 21 November 2016 that you were suffering from cancer when this was not the case;

d) Between 2 July 2015 and 25 February 2016, was granted one or more day(s) off in respect of hospital and/or medical appointments which did not exist.

2. Prior to 4 September 2017, on your application form to be a Practice Nurse at Elm Lane Surgery:

a) Indicated that your end date with Oakwood High School was December 2017 when this was not the case;

b) Indicated that your reason for leaving Oakwood High School was to further your career when you had in fact been dismissed from their employment.

3. Your actions were dishonest in that:

a) In relation to charges 1a and/or 1c you knew that you were not suffering from cancer;

b) In relation to charge 1b you submitted a letter that you knew to be false;

c) In relation to charge 1d you knew that you were not entitled to take that time off;

d) In relation to charge 2a you knew that you had finished with Oakwood High School prior to December 2017;

e) In relation to charge 2b you knew that you had been dismissed from that employment.

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

### **Background:**

Mrs Watson accepted the broad regulatory concerns within the Regulatory Concerns Form dated 8 March 2019 and then went on to accept the charges in her completed Case Management Forms (CMF) 'Your response to the charges' dated 30 July 2019 and one dated 21 September 2019.

Charge 1 relates to Mrs Watson's time working as a Lead First Aid and Attendance Officer at Oakwood High School (the School). This charge relates to the Registrant telling colleagues and the school that she was suffering from cancer and submitting a letter purporting to be from Weston Park Hospital (the Hospital) to confirm this, when she was not suffering from cancer. She received time off for medical and hospital appointments that did not exist. There are associated dishonesty charges at 3a to 3c given that she knew that she was not suffering from cancer and was not entitled to take the time off.

Charge 2 relates to an application that Mrs Watson submitted for the position of a Practice Nurse at Elm Lane Surgery (the Surgery). Within the application form Mrs Watson stated that the end of her employment at the School was in December 2017 and that her reasons for leaving was to further her career. There are associated dishonesty charges at 3d and 3e given that she had finished with Oakwood High School prior to December 2017 and knew that she had been dismissed as opposed to leaving to further her career.

Four NMC witness statements and associated exhibits have been provided in support of the allegations.

### **Decision on facts:**

The panel carefully considered all the evidence before it, including: the NMC meeting bundle; Mrs Watson's CMFs dated 30 July 2019 and 21 September 2019 and her handwritten statement received by the NMC on 3 October 2019.

The panel heard and accepted the advice of the legal assessor. 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 the facts will be proved if the panel was satisfied that it was more likely than not that the incidents occurred as alleged.

The panel noted and took into account the most recent CMF 'Your response to the charges' form dated 21 September 2019, in which Mrs Watson made admissions in respect of charges 1 (in its entirety), 2 (in its entirety) and 3 (in its entirety). The panel had further regard to Mrs Watson's handwritten statement received by the NMC on 3 October 2019, where she stated in relation to the allegations: "*I have in previous correspondence acknowledged the accusations against me and have been fully compliant with the NMC.*"

In light of the admissions and Mrs Watson's written statement, the panel found charges 1 (in its entirety), 2 (in its entirety) and 3 (in its entirety) proved by way of admission.

### **Decisions on misconduct and impairment:**

Having decided its finding on the facts, the panel then moved on to consider whether the facts found proved amount to misconduct and, if so, whether Mrs Watson's fitness to practise is currently impaired. The NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

The panel heard and accepted the advice of the legal assessor, which included references to the cases of *Roylance v General Medical Council (no. 2) [2000] 1 AC 311*; and *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin)*, in relation to the factors the panel should take into account when considering misconduct and impairment.

The panel adopted a two-stage process in its consideration, as advised. 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 Watson's fitness to practise is currently impaired as a result of that misconduct.

## **Decision on misconduct:**

When determining whether the facts found proved amount to misconduct the panel had regard to the terms of *The Code: Professional standards of practice and behaviour for nurses and midwives (2015)* (“the Code”).

The panel, in reaching its decision, had regard to the public interest and accepted that there was no burden or standard of proof at this stage and exercised its own professional judgement.

The panel was of the view that Mrs Watson’s actions in relation to the matters found proved had engaged the following parts of the Code:

*Paragraph 20 – Uphold the reputation of your profession at all times.*

*To achieve this you must:*

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

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

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

The panel bore in mind that breaches of the Code do not automatically equate to a finding of misconduct. However, the panel determined that Mrs Watson’s actions in forging a letter from a Consultant Clinical Oncologist stating that she had been diagnosed with cancer were very serious and fell far below the standards expected of a registered nurse. The panel determined that Mrs Watson’s actions were aggravated by her elaborate and sophisticated deception to manipulate the emotions of others by using a terminal cancer diagnosis to invoke sympathy. The panel was of the view that

in the course of her deception, Mrs Watson had used her knowledge of the medical system in pursuit of her own interests.

The panel was further concerned that Mrs Watson went on to repeat her dishonesty on another occasion by lying to the Surgery about her dismissal from the School. The panel decided that fellow nursing professionals would consider Mrs Watson's actions in relation to the charges found proved to be deplorable. The panel concluded that Mrs Watson's actions fell far below the standard required of a registered nurse and therefore amounted to serious misconduct.

### **Decision on impairment:**

The panel next went on to decide whether Mrs Watson's fitness to practise is currently impaired as a result of her misconduct.

The panel had regard to the guidance given in the judgment of Mrs Justice Cox in the case of Grant. At paragraph 74 of that judgment, 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.*

Mrs Justice Cox went on to say in Paragraph 76, quoting from Dame Janet Smith in her Fifth Shipman Report at 25.67:

*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 Mrs Watson’s actions engaged all the limbs of the guidance quoted above. The panel noted that at the time of the incidents Mrs Watson was not involved in direct patient care. Therefore, there was no evidence that she had in the past placed patients at unwarranted risk of harm. However, the panel was deeply concerned that Mrs Watson was prepared to fabricate a medical report to suit her own purposes. The panel determined that there was a clear risk of harm to patients if she were to act dishonestly in a clinical setting.

The panel had regard to the fact that patients and the public place trust in the nursing profession, and that nurses are expected to act in a way which justifies that trust. It is fundamental to maintaining that trust that nurses make it a priority to deliver the best possible care to their patients and act honestly. The panel considered that these were fundamental tenets of the profession. The panel therefore considered that Mrs Watson’s actions breached the fundamental tenets of the profession and her actions were also of such a nature as to bring the profession into disrepute. Furthermore, Mrs Watson had acted dishonestly on more than one occasion.

The panel bore in mind that the issue it had to determine was that of current impairment. It therefore had to look to the future and consider whether Mrs Watson is liable in future to act in such a way as to put patients at unwarranted risk of harm, breach fundamental tenets of the profession, bring the profession into disrepute or act dishonestly. The decision about the risk of repetition would be informed by consideration of the level of insight and remorse Mrs Watson has demonstrated, and by whether the misconduct found in this case has been or is capable of being remedied.



The panel had regard to the handwritten statement Mrs Watson submitted for these proceedings.

The panel noted that there were no concerns raised in relation to Mrs Watson's clinical skills. The concerns in this case arose from Mrs Watson's dishonest conduct. The panel took into account the fact that Mrs Watson made admissions to the charges, expressed some remorse and apologised in her hand written statement. However, the panel determined that Mrs Watson did not demonstrate sufficient insight or reflection into the seriousness of her conduct, how she came to act dishonestly, or into the impact of her dishonesty, particularly in relation to her colleagues, employers and others. There was limited evidence of insight into the need for honesty, probity and integrity as a registered nurse at all times. In the panel's judgement, the limited evidence of insight from Mrs Watson was inward looking and mainly focused on the impact the events of 2017 had on her. There was no personal accountability or a wider appreciation of the impact of her dishonesty and misconduct on others, colleagues and the reputation of the nursing profession as a whole. The panel therefore concluded that Mrs Watson has limited insight into her misconduct.

With regard to remediation the panel considered that, whilst remediable, dishonesty can be difficult to remediate. However, in this case, the panel had scant evidence of reflection, insight, testimonials or evidence of how Mrs Watson would act if faced with similar circumstances. The panel noted that Mrs Watson's dishonesty was not isolated and involved a pattern of behaviour over a period of time. The panel considered that Mrs Watson's dishonesty, which involved using her clinical knowledge in order to deceive others and further her own interest had the potential to place patients at unwarranted risk of harm in the future. The panel therefore concluded that in the absence of adequate insight, together with the fact that Mrs Watson's misconduct has not been remedied, there is a high risk of repetition. The panel determined that in these circumstances, a finding of impairment is necessary on the grounds of public protection.

The panel went on to consider whether a finding of impairment is also necessary to uphold proper professional standards and public confidence in the profession. The panel determined that members of the public would be shocked to learn that a registered nurse had fraudulently used a terminal cancer illness to invoke sympathy and

emotional reaction to further her interests; and that she had created an entirely fictitious medical report to make it appear that she was receiving treatment for cancer from a consultant. The panel determined that informed members of the public with knowledge of the circumstances of this case would be concerned if a finding of impairment were not made and public confidence would be undermined as a result. The panel therefore determined that a finding of impairment on public interest grounds was required to uphold public confidence in the profession, the NMC as regulator and mark Mrs Watson's behaviour as unacceptable.

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

**Determination on sanction:**

The panel has considered this case carefully and decided to make a striking-off order. The effect of this order is that the NMC register will show that Mrs Watson's name has been struck off the register.

In reaching this decision, the panel had regard to all of the documentary evidence that had been presented to it.

The panel heard and accepted the advice of the legal assessor in relation to the factors it should take into account at this stage including reference to the case of *Parkinson v NMC [2010] EWHC 1898 (Admin)*.

The panel bore in mind that any sanction imposed must be reasonable, appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had regard to the Sanctions Guidance (SG) published by the NMC. It recognised that the decision on sanction is a matter for the panel, exercising its own independent judgement.

The panel first considered the aggravating and mitigating factors in this case.

The panel identified the following as aggravating factors in this case:

- Mrs Watson's lack of insight into the wider impact of her misconduct;
- Mrs Watson's dishonesty involved a sophisticated, calculated and elaborate forgery to manipulate the emotions of others by using a terminal cancer illness diagnosis to invoke sympathy;
- Mrs Watson's dishonesty was repeated over a prolonged period of time;
- Her dishonesty was premeditated.

The panel identified the following as a mitigating factor in this case:

- There was no evidence of patient harm.

The panel next turned to the question of which sanction, if any, to impose. It considered each available sanction in turn, starting with the least restrictive sanction and moving upwards.

The panel first considered whether to take no action. The panel bore in mind that it had identified at the impairment stage that there remained a high risk of repetition in this case. Any repetition would bring with it a risk of harm to others. To take no action would therefore not provide protection to the public. In addition, the panel considered that to take no further action would be inadequate to mark the seriousness of Mrs Watson's misconduct and it would therefore not address the public interest considerations of this case.

Next, in considering whether a caution order would be appropriate in the circumstances, the panel considered that Mrs Watson's impairment was not at the lower end of the spectrum of fitness to practise and that a caution order would be inappropriate in view of the seriousness of the matters found proved. In light of the risk of repetition identified at the impairment stage, it would offer no protection to the public, as it would not restrict Mrs Watson's practice. Therefore, the panel decided that it was not proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mrs Watson's registration would be a sufficient and appropriate response. The panel was mindful that any conditions imposed must be proportionate, measurable and workable. The panel

determined that it was not possible to formulate conditions which would address the serious concerns emanating from its findings of dishonesty. The panel therefore concluded that placing conditions on Mrs Watson's registration would not adequately address the seriousness of this case, protect the public nor address the public interest.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The panel had regard to the SG where it states:

“Key things to weigh up before imposing this order include:

- whether the seriousness of the case require temporary removal from the register?
- will a period of suspension be sufficient to protect patients, public confidence in nurses and midwives, or professional standards?

[...]

- 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 panel considered that Mrs Watson's misconduct which related to an elaborate and sophisticated forgery and using a terminal illness to invoke sympathy and emotional reaction in the deceit of others, was serious. The panel also considered that Mrs Watson's dishonesty was repeated over a prolonged period of time which was indicative of an attitudinal problem. It bore in mind its findings that there is a risk of Mrs Watson's misconduct, which involved deliberate dishonesty, being repeated due to her lack of insight, remorse and remediation. Having carefully considered the guidance on the seriousness of dishonesty in the SG and the factors highlighted the panel concluded that Mrs Watson's dishonesty was very serious.

The panel was of the view that Mrs Watson's misconduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel bore in mind the misconduct found in Mrs Watson's case had the potential to place patients at unwarranted risk of harm in the future. The panel

concluded that the serious breaches of the fundamental tenets of the profession, evidenced by Mrs Watson's misconduct, are fundamentally incompatible with her name remaining on the register. The panel determined that a suspension order would therefore not be a sufficient, appropriate or a proportionate sanction to protect the public or satisfy the public interest considerations of this case. In the panel's judgement, public confidence in the profession and the NMC as a regulator would be undermined by the imposition of a suspension order even for a maximum period of 12 months.

In considering a striking-off order, the panel took note of the following paragraphs of the SG:

"This sanction is likely to be appropriate when what the nurse or midwife has done is fundamentally incompatible with being a registered professional. Before imposing this sanction, key considerations the panel will take into account include:

- 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?"

Balancing these factors and carefully considering all of the evidence before it, the panel had no hesitation in concluding that the only appropriate and proportionate sanction is that of a striking-off order. The panel noted that Mrs Watson's misconduct was very serious and related to multiple breaches of fundamental tenets of the profession and to allow her to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body. The panel concluded that a striking off order is the only order sufficient to protect the public, mark the severity of Mrs Watson's misconduct and meet the public interest.

Accordingly, the panel directs that Mrs Watson's name be removed from the Register.

### **Decision on Interim Order:**

Having imposed a striking-off order, the panel then considered whether to impose an interim order to cover the period until the substantive order takes effect, and any appeal period.

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

The panel determined that an interim order is necessary for the protection of the public and the maintenance of public confidence in the nursing profession.

The panel concluded, for the same reasons as set out above, an interim conditions of practice order would not be appropriate or sufficient.

The panel determined that an interim suspension order was necessary in this case for the protection of the public and is otherwise in the public interest for the same reasons as set out for the substantive order. To do otherwise would be inconsistent with its earlier findings.

This order will be for a period of 18 months to cover the period until the substantive order takes effect and any possible appeal period.

That concludes this determination.