

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

**Substantive Meeting  
Tuesday 20 July 2021 & Tuesday 3 August 2021**

Virtual Meeting

<b>Name of registrant:</b>	<b>Colin Shackleton</b>
<b>NMC PIN:</b>	75U4115E
<b>Part(s) of the register:</b>	Registered Nurse (Adult) - November 1978  Registered Nurse (Mental Health) – December 1980  Specialist Practitioner Community Nursing (Mental Health) – July 1997
<b>Area of registered address:</b>	West Yorkshire
<b>Type of case:</b>	Misconduct
<b>Panel members:</b>	John Penhale (Chair, Lay member) Allwin Mercer (Registrant member) Suzy Ashworth (Lay member)
<b>Legal Assessor:</b>	Clare Bates
<b>Panel Secretary:</b>	Sherica Dosunmu
<b>Facts proved by admission:</b>	All Charges
<b>Facts not proved:</b>	N/A
<b>Fitness to practise:</b>	Impaired
<b>Sanction:</b>	Striking-Off Order
<b>Interim order:</b>	Interim Suspension Order (18 months)

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

The legal assessor informed the panel that a Notice of Meeting had been sent to Mr Shackleton by secure email on 2 June 2021.

The panel considered whether notice of this meeting had been served in accordance with the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 ('the Rules'). It noted that under the recent amendments made to the Rules during the Covid-19 emergency period, a Notice of Meeting may be sent to a registrant's registered address by recorded delivery and first-class post, or to a suitable email address on the register.

The panel took into account that the Notice of Meeting provided details of the allegation, the time, date, and how Mr Shackleton could make comments and put any information before the panel that he felt was relevant.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mr Shackleton has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34.

The panel noted that the Rules do not require receipt of delivery and that it is the responsibility of any registrant to maintain an effective and up-to-date registered address.

## **Details of charge (as amended)**

That you, a registered nurse:

1. In relation to Patient A;
  - a. discharged Patient A from community care without clinical justification; **[PROVED BY WAY OF ADMISSION]**
  - b. between 28 January 2018 and 5 February 2018 engaged in an inappropriate relationship with Patient A which included physical

- contact by hand holding and hugging; **[PROVED BY WAY OF ADMISSION]**
- c. between 29 January 2018 and 9 February 2018, on one or more occasion, visited Patient A at their home address outside of normal working hours; **[PROVED BY WAY OF ADMISSION]**
  - d. on 9 February 2018, having been told not to, visited Patient A at their home address without clinical justification; **[PROVED BY WAY OF ADMISSION]**
  - e. on the evening of 9 February 2018, telephoned Patient A without clinical justification. **[PROVED BY WAY OF ADMISSION]**
2. Your actions at Charge 1(a) to 1(e) were in breach of professional boundaries. **[PROVED BY WAY OF ADMISSION]**
  3. Between 1 June 2017 and 28 February 2018, on more than one occasion, as identified in Schedule 1:
    - a. failed to record entries in patient records in a timely manner in accordance with the Trust's policy; **[PROVED BY WAY OF ADMISSION]**
    - b. failed to document patient visits; **[PROVED BY WAY OF ADMISSION]**
    - c. failed to document patient assessments; **[PROVED BY WAY OF ADMISSION]**
  4. On 4 January 2018, having been allocated the case of Patient X, failed to arrange a home visit to meet with Patient X following their discharge from hospital; **[PROVED BY WAY OF ADMISSION]**
  5. On 8 and 9 February 2018, having learnt of Patient X's death, made a number of retrospective entries in Patient X's record of care; **[PROVED BY WAY OF ADMISSION]**
  6. Having made the entries in Charge 5 above, failed to mark them as retrospective entries. **[PROVED BY WAY OF ADMISSION]**

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

## **Background**

The Nursing and Midwifery Council (NMC) received a referral on 4 December 2018 from Mr Shackleton's former employer, Bradford District Care NHS Foundation Trust (the Trust), in relation to concerns raised while Mr Shackleton was working as a Registered Community Mental Health Nurse. Mr Shackleton began working at the Trust in September 2009.

The referral alleges that in January 2018, Mr Shackleton took over as Patient A's care coordinator to cover for a colleague who was on sick leave. When the colleague returned to work, it was found that Mr Shackleton had discharged Patient A. Concerns were raised as Patient A was a long-term patient. Mr Shackleton's colleague also raised concerns about some of the entries Mr Shackleton had made regarding Patient A.

It is alleged that the records indicated that Mr Shackleton was going to discharge Patient A and visit her as a friend, which Mr Shackleton's colleague regarded as inappropriate and a breach of the Trust's policies and protocols. As a result, Mr Shackleton's colleague raised their concerns with Mr Shackleton and informed the Trust's Service Manager for Older People's Mental Health, Learning Disability and Physical Health Services.

Mr Shackleton was later instructed by his temporary line manager not to visit or engage with Patient A in any way. It is alleged that Mr Shackleton visited Patient A that evening and also made a telephone call to her against management instruction.

The matter was subsequently investigated by the Trust and Patient A was interviewed.

The referral alleges that in July and August 2017, a record keeping audit was undertaken for the entire team and concerns were found about Mr Shackleton's record keeping. All members of the team were placed on an improvement plan, including Mr Shackleton's line manager who then had a period of sick leave. Despite the improvement plan, concerns about Mr Shackleton's record keeping remained.

In particular, record keeping concerns were identified about Patient X. Patient X was discharged from hospital on 12 January 2018, following a drug overdose. Patient X took their own life on 26 January 2018. Mr Shackleton had not arranged to meet with Patient X who was a vulnerable individual and should have had a meeting. It is alleged that Mr Shackleton made retrospective entries in Patient X's notes in February 2018 after he learnt of Patient X's death. These entries were not marked as retrospective.

As a result of these concerns, Mr Shackleton's records were audited from September 2017 to February 2018. The referral alleges that it was discovered that there were considerable delays in Mr Shackleton entering notes onto the electronic system used by the Trust at the time.

A disciplinary hearing was held on 8 November 2018 that resulted in Mr Shackleton's dismissal.

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

At the outset of the meeting, the panel had regard to Mr Shackleton's completed and signed Case Management Form (CMF) dated 2 March 2021 that included his full admission to all the charges against him.

The panel therefore finds charges 1, 2, 3, 4, 5 and 6 proved in their entirety by way of Mr Shackleton's admission.

### **Legal advice on health consideration**

The panel requested advice on whether this matter should be dealt with as a health case as there was evidence within the bundle of concerns regarding Mr Shackleton's health.

The legal assessor advised the panel that mental or physical health can be a gateway to impairment. She directed the panel to paragraph 25.44 of the Fifth Shipman Report:

*'If a doctor is suffering from ill health (for example severe depression) one might say that s/he is not fit to practise because his/her concentration is so affected that s/he*

*cannot make effective decisions on diagnosis and treatment; s/he presents a risk to patients.'*

The legal assessor advised the panel to consider whether on the evidence received the allegations should properly be that Mr Shackleton's fitness to practise is impaired only by reason of his physical or mental health, or if this case falls into the category of cases where health is only one facet of broader or more serious concerns about his fitness to practise. She advised the panel to consider whether there is evidence that Mr Shackleton acted in a particular way because of his health or if there was sound medical evidence that the incident would not have happened if not for his health. She directed the panel to the cases of *Crabbie v GMC* [2002] UKPC 45 and *R (Thoth) v GMC* [2000] 1 WLR 2209, and advised that the panel should consider whether the allegations of misconduct fall to the lower end of the spectrum or whether the allegations relate to matters which are sufficiently serious that all sanctions should be available, to maintain public confidence in the nursing profession.

The panel determined that the allegations contained within the charge did not relate to matters which arose only as a result of issues with Mr Shackleton's health. Furthermore, the panel was of the view that the allegations are serious and do not fall at the lower end of the spectrum. The panel determined that it was proper and appropriate to proceed with the charge of misconduct, but that full consideration would be given to the evidence of health concerns in its determination. No amendment to the charge was required in this regard.

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

The panel did note a typographical error in Charge 6 and considered whether to amend the wording of Charge 6 as follows:

#### Original Charge:

6. Having made the entries in Charge 6 above, failed to mark them as retrospective entries.

### Proposed Charge:

6. Having made the entries in **Charge 5** ~~Charge 6~~ above, failed to mark them as retrospective entries.

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

The panel was of the view that such amendment would provide clarity and more accurately reflect the evidence. Further, it was satisfied that there would be no prejudice to Mr Shackleton and no injustice would be caused to either party, as all parties clearly understood the meaning of the charge. It was therefore appropriate to allow the amendment to correct the typographical error.

### **Fitness to practise**

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Mr Shackleton's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage, and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Mr Shackleton's fitness to practise is currently impaired as a result of that misconduct.

### **Representations on misconduct and impairment**

In reaching its decision, the panel considered all the documentary evidence adduced in this case together with the written representations made by the NMC.

In its written representations, the NMC submits that Mr Shackleton's conduct fell significantly short of the standards and relevant provisions of The Code: Professional standards of practice and behaviour for nurses and midwives (2015)' ('the Code'). The NMC outlined specific standards of the Code where Mr Shackleton's actions amounted to misconduct.

The NMC accepted that not every breach of the Code will result in a finding of misconduct, however, the NMC submitted that the Mr Shackleton's actions are a serious departure from the professional standards and behaviour expected of a registered nurse.

The NMC stated that 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 and therefore it is imperative that nurses make sure that their conduct at all times justifies both their patients' and the public's trust in the profession. The NMC submitted that Mr Shackleton engaged in an inappropriate relationship with Patient A, breaching professional boundaries, and made a number of record-keeping errors which could have resulted in patient harm.

The NMC submitted that in all of the circumstances, Mr Shackleton's actions and omissions fell far below the standards which would be considered acceptable to the profession and that all of the charges found proved are sufficiently serious so as to amount to misconduct.

The NMC submitted that in relation to impairment, a general approach as to what might lead to a finding of impairment was provided by Dame Janet Smith in her Fifth Shipman Report, which was confirmed in the case of *CHRE v NMC & Grant* [2011] EWHC 927 at paragraph 76 in the following terms:

*'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. [...]*

The NMC submitted that in this case, limbs a, b and c are engaged, and Mr Shackleton's clinical errors did put patients at unwarranted risk of harm. The NMC submitted that patients and members of the public would be concerned to hear of a nurse making errors in such basic and fundamental nursing practice and engaging in an inappropriate relationship with a patient, which breached professional boundaries. Further, the NMC submitted that Mr Shackleton's actions have brought the profession into disrepute.

The NMC stated that Mr Shackleton has demonstrated some insight in that he has admitted all the charges and accepted that his fitness to practise is currently impaired in his returned CMF. However, Mr Shackleton has not provided the panel with evidence of any reflection to demonstrate that he has undertaken any meaningful reflective work. It is submitted that, in the absence of full insight and remediation, Mr Shackleton is liable in the future to put patients at unwarranted risk of harm were he to practise without any restriction.

For these reasons, the NMC submitted that Mr Shackleton's fitness to practise is currently impaired by reason of his misconduct, both on the grounds of public protection and the wider public interest.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council (No 2)* [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and *General Medical Council v Meadow* [2007] QB 462 (Admin).

## **Decision and reasons on misconduct**

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code.

The panel was of the view that Mr Shackleton's actions did fall significantly short of the standards expected of a registered nurse, and that Mr Shackleton's actions amounted to a breach of the Code. Specifically:

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

*1.2 make sure you deliver the fundamentals of care effectively*

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

*1.5 Respect and uphold people's human rights*

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

*3.1 pay special attention to promoting wellbeing, preventing ill-health and meeting the changing health and care needs of people during all life stages*

***6 Always practise in line with the best available evidence***

*6.1 make sure that any information or advice given is evidence-based including information relating to using any health and care products or services*

***8 Work cooperatively***

*8.2 maintain effective communication with colleagues*

*8.4 work with colleagues to evaluate the quality of your work and that of the team*

*8.5 work with colleagues to preserve the safety of those receiving care*

*8.6 share information to identify and reduce risk*

***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*

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

***17 Raise concerns immediately if you believe a person is vulnerable or at risk and needs extra support and protection***

*17.1 take all reasonable steps to protect people who are vulnerable or at risk from harm, neglect or abuse*

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

***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 honesty and integrity at all times*

*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.'*

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. In assessing whether the charges amounted to misconduct, the panel considered the charges individually and collectively. It took account of all the evidence before it and the circumstances of the case as a whole.

The panel was of the view that all the limbs of charge 1 and charge 2, which related to Patient A, demonstrated that Mr Shackleton's actions fell seriously short of the standards expected of a registered nurse as they involved discharging a vulnerable patient and

engaging in an inappropriate relationship with the patient, therefore individually and collectively amounted to serious misconduct.

The panel next considered each limb of charge 3 individually and collectively considered that Mr Shackleton's actions found proved in charges 3a, 3b and 3c reached the threshold to constitute serious misconduct. In relation to this charge, the panel reminded itself that the purpose of recording in respect of patients is to allow other practitioners enough information to assess any risks involved with the patients. Although the panel noted systematic failings in relation to poor supervision, it was of the view that Mr Shackleton is an experienced nurse who would have been aware of his individual responsibilities as a registered nurse. The panel determined that Mr Shackleton demonstrated consistent failings in recording, which was in breach of standards.

The panel next considered charge 4 and noted that Mr Shackleton's failings in this charge involved a very vulnerable patient at the risk of self-harm. The panel determined that Mr Shackleton's actions found proved in this charge amounted to serious misconduct and would be viewed as deplorable by members of the public and fellow members of the nursing profession.

The panel next considered charge 5 found proved. The panel was of the view that Mr Shackleton's retrospective entries appeared to be an attempt to cover up his failings in the care of Patient X. The panel considered these actions to be serious and amounted to serious misconduct.

In relation to charge 6 the panel considered that failing to mark as retrospective entries which were made after the death of a patient constituted serious misconduct.

Therefore, having regard to Mr Shackleton's individual failings, the panel considered that these were serious and amounted to misconduct. Having regard to all of the charges collectively, which constituted a pattern of clinical and behavioural failings, the panel considered that as well as individually, they collectively fell far below the standards expected of a registered nurse. The panel determined that Mr Shackleton's actions and omissions in this case amounted to misconduct.

## Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Mr Shackleton's 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 and to maintain professional boundaries. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. 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 *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) ...'*

The panel considered this test and found that limbs a, b and c were engaged in this case. The panel finds that patients were put at risk of physical and emotional harm as a result of Mr Shackleton's misconduct. Mr Shackleton's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

The panel next went on to consider the matter of insight. The panel took into consideration Mr Shackleton's early admissions to all of the charges. The panel is of the view that Mr Shackleton has shown very limited insight into his actions as there is no evidence of Mr Shackleton's current level of insight regarding his misconduct.

The panel was satisfied that some of the misconduct in this case is capable of remediation, however the panel was of the view that the inappropriate relationship with which charge 1 was concerned constituted misconduct that would be very difficult to remediate. The panel was of the view that Mr Shackleton demonstrated a total disregard for the policy and procedure that provided essential safeguards for vulnerable patients. The panel considered this to be evidence of a wider attitudinal concern. Therefore, the panel carefully considered the evidence before it in determining whether or not Mr Shackleton has remedied his practice. However, the panel determined that there was no evidence to indicate remediation.

Taking all this evidence into account, the panel is of the view that due to the lack of insight or evidence of remediation there remains a real risk of repetition of the concerns raised if Mr Shackleton were to practise without restriction. The panel noted that Mr Shackleton failed to perform a number of key nursing duties and considered that there is a real risk of harm to the public if Mr Shackleton was allowed to practise without restriction. 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.

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

Having regard to all of the above, the panel was satisfied that Mr Shackleton's fitness to practise is currently impaired on the grounds of both public protection and public interest.

## **Sanction**

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike Mr Shackleton off the register. The effect of this order is that the NMC register will show that Mr Shackleton has been struck-off the register.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

## **Representations on sanction**

The panel noted that in the Statement of Case attached to the Notice of Meeting, dated 2 June 2021, the NMC had advised Mr Shackleton that it would seek a striking-off order if the panel were to find Mr Shackleton's fitness to practise currently impaired.

## **Decision and reasons on sanction**

Having found Mr Shackleton's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- No evidence of remediation.
- The registrant engaged in an inappropriate relationship with a vulnerable patient.
- The registrant breached professional boundaries.

The panel also took into account the following mitigating features:

- Mr Shackleton's health.
- Mr Shackleton has demonstrated some insight in that he has admitted all the charges and accepted that his fitness to practise is currently impaired.

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 noted that the misconduct related to a breach of professional boundaries and engaging in an inappropriate relationship with an existing patient who was clearly vulnerable. Further, the panel noted that Mr Shackleton is yet to remedy the deficiencies in his practice and to take no further action would leave the public exposed to an unwarranted risk of harm. 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 a caution would do nothing to protect the public, nor would it satisfy the public interest in this case. 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 Mr Shackleton's 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 Mr Shackleton's registration would be a sufficient and appropriate response. The panel considered that alongside the concerns regarding Mr Shackleton's performance and record-keeping failures, there are also additional serious concerns surrounding breach of professional boundaries with Patient A, a vulnerable, long-standing mental health patient. The panel was of the view that there are no practical or workable conditions that could be formulated given the nature of the charges in this case. Furthermore, the panel concluded that the placing of conditions on Mr Shackleton's registration would not adequately address the seriousness of this case, would not protect the public, nor would it satisfy the public interest.

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;*
- *In cases where the only issue relates to the nurse or midwife's health, there is a risk to patient safety if they were allowed to continue to practise even with conditions; and*
- *In cases where the only issue relates to the nurse or midwife's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions.*

The SG also makes it clear that there are a small number of concerns that are so serious that it may be less easy for the conduct to be put right. The SG provides examples of

conduct which falls within this category and includes '*relationships with patients in breach of guidance on clear sexual boundaries*'.

Mr Shackleton's actions, as highlighted by the facts found proved, were a significant departure from the standards expected of a registered nurse. The panel reached the view that such a serious breach of professional boundaries and Mr Shackleton's lack of insight and remediation was indicative of an attitudinal issue. The panel considered that Mr Shackleton deliberately breached the professional duty of candour and put his own desires above the needs of his patient. For these reasons, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction. The panel was of the view that members of the public would be dismayed to hear that a registered nurse who breached professional boundaries with a vulnerable patient whose vulnerabilities was familiar to him was allowed to remain on the register.

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?*

The panel noted that temporary removal from the register, although a significant sanction, given the circumstances of this case, and the relevant guidance, would not be sufficient. The panel was of the view that the nature of the conduct to which the charges relate are serious and fundamentally incompatible with the expectation that a reasonable member of the public would have of the standards expected of a registered nurse. The panel determined that in these circumstances, to allow Mr Shackleton to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

Whilst a suspension order could be sufficient to protect the public where a registrant was willing to address their behaviour, Mr Shackleton has demonstrated inadequate insight and

provided no evidence of remorse or remediation. Without any evidence or assurances from Mr Shackleton before the panel to suggest that his behaviour would be any different in the future the panel determined that the risk of repetition remained. Further, without the evidence mentioned above, the panel considered that the public interest would not be served by any lesser sanction than a striking-off order.

Balancing all of these factors and taking into account all the evidence before it, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of Mr Shackleton's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct himself, 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 Mr Shackleton in writing.

### **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 Mr Shackleton's own interest until the striking-off order takes effect.

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

### **Representations on interim order**

The panel took account of the written representations made by the NMC that it is also necessary for the protection of the public and otherwise in the public interest for there to be an interim suspension order of 18 months to cover the appeal period.

## **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 imposed an interim suspension order for a period of 18 months to allow for any possible appeal period.

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

That concludes this determination.