Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
10 – 19 February 2020
Nursing and Midwifery Council
2 Stratford Place, Montfichet Road, London, E20 1EJ

17 – 22 February 2021
24 – 25 February 2021
Virtual Hearing

Name of registrant:	**Linda Mutero**
NMC PIN:	05A1103E
Part(s) of the register:	RNMH: Mental Health nurse (3 January 2005)
Area of registered address:	Kent
Type of case:	Misconduct
Panel members:	David Newman (Chair, lay member) Carole Panteli (Registrant member) Chris Thornton (Lay member)
Legal Assessor:	Oliver Wise (10 February 2020) Mark Piercy (All other dates)
Panel Secretary:	Roshani Wanigasinghe
Ms Mutero:	Present and represented by Dr Abbey Akinoshun
Nursing and Midwifery Council:	Represented by James Edenborough, Case Presenter
Facts proved by admission:	Charge 2
Facts proved:	Charge 1 in respect of all dates except for 5 June 2015 in Schedule 1, Charge 3 in respect

	of all dates except for 5 June 2015 and 9 October 2015 in Schedule 3, Charge 4 in respect of all dates except for 5 June 2015 in Schedule 1, Charge 5 in its entirety, and Charge 6 in respect of all dates except for 5 June 2015 and 9 October 2015 in Schedule 3.
Facts not proved:	Charge 1 in respect of 5 June 2015 in Schedule 1, Charge 3 in respect of 5 June 2015 and 9 October 2015 in Schedule 3, Charge 4 in respect of 5 June 2015 in Schedule 1 and Charge 6 in respect of 5 June 2015 and 9 October 2015 in Schedule 3.
Fitness to practise:	Impaired
Sanction:	**Striking-off order**
Interim order:	**Suspension order - 18 months**

Details of charges (as amended)

That you, a registered nurse:

1) Received payment for one or more of the bank shifts set out in Schedule 1 which you did not work. **[Charge found proved in respect of all dates except for 5 June 2015 in Schedule 1]**

2) Received payment for one or more of the bank shifts set out in Schedule 2 when you should have received payment for a substantive shift. **[Proved by admission]**

3) Finalised your own bank shifts on one or more of the dates set out in Schedule 3 when you were not permitted to do so. **[Charge found proved in respect of all dates except for 5 June 2015 and 9 October 2015 in Schedule 3]**

4) Your conduct in Charge 1, above, was dishonest in that you knew you were not entitled to receive payment for shifts you had not worked. **[Charge found proved in respect of all dates except for 5 June 2015 in Schedule 1]**

5) Your conduct in Charge 2, above, was dishonest in that you knew you were not entitled to receive payment for bank shifts when you had not fulfilled your contractual hours. **[Charge found proved]**

6) Your conduct in Charge 3, above, was dishonest in that you knowingly authorised payment to yourself for shifts you were not entitled to receive payment for. **[Charge found proved in respect of all dates except for 5 June 2015 and 9 October 2015 in Schedule 3]**

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

Schedule 1

24 April 2015
25 May 2015
2 June 2015
3 June 2015
5 June 2015
3 July 2015
20 August 2015
8 October 2015

Schedule 2

3 April 2015
14 June 2015
19 June 2015
28 June 2015
16 July 2015
29 July 2015
17 August 2015
21 August 2015
24 August 2015
26 August 2015
22 September 2015
30 September 2015
2 October 2015
9 October 2015
14 October 2015
16 October 2015
19 October 2015
9 November 2015
16 November 2015

31 December 2015
1 January 2016

Schedule 3

5 April 2015
26 April 2015
27 May 2015
3 June 2015
5 June 2015
21 June 2015
28 June 2015
12 July 2015
17 July 2015
31 July 2015
22 August 2015
23 August 2015
29 August 2015
30 August 2015
27 September 2015
2 October 2015
9 October 2015

Background

The charges arose in respect of your employment by East London NHS Foundation Trust (the Trust) as a Clinical Nurse Manager at the Newham Centre for Mental Health (NCMH).

The Local Counter Fraud Specialist (LCFS) undertook an investigation into an allegation that whilst you were acting as Ward Manager for Opal Ward, you dishonestly authorised payment to yourself for working bank shifts when you were not entitled to do so.

It is alleged that between 3 April 2015 and 1 January 2016 you were not fulfilling your contracted hours as Clinical Nurse Manager (CNM). As a result you had accumulated a significant shortfall in your substantive hours. Despite you having not fulfilled your substantive hours during this period, you had assigned bank shifts to yourself. These shifts were allegedly finalised by you using the log in details of your colleagues without their knowledge or consent.

The Trust held an investigation into these matters following which you left the Trust.

Decision and reasons on the NMC application to amend the charge

The panel heard an application made by Mr Edenborough, on behalf of the NMC, to amend the wording of charge 3.

The proposed amendment was to change the word “authorised” to “finalised”. It was submitted by Mr Edenborough that the proposed amendment would provide further clarity and more accurately reflect the evidence, as this is the terminology used in Ms 1’s Investigation Report as well as the Trust’s term for approving shift work and its consequent authorisation for payment. He submitted that this change would not cause any injustice. He submitted that although it is clear to the parties what the word “authorised” means at charge 3, this application is made for the purpose of precision and the understanding of any third party reading this case.

Currently as set out at charge 3:

“Authorised your own bank shifts on one or more of the dates set out in Schedule 3 when you were not permitted to do so.”

Proposed amendment to charge 3:

“Finalised your own bank shifts on one or more of the dates set out in Schedule 3 when you were not permitted to do so.”

Dr Akinoshun, on your behalf, submitted that you remain indifferent to this change and that it is in the panel's discretion to change the word "Authorised" to "Finalised" at charge 3.

The panel accepted the advice of the legal assessor that Rule 28 of the Rules states:

> 28.— (1) At any stage before making its findings of fact, in accordance with rule 24(5) or (11), the Investigating Committee (where the allegation relates to a fraudulent or incorrect entry in the register) or the Fitness to Practise Committee, may amend—
>
> (a) the charge set out in the notice of hearing; or
>
> (b) the facts set out in the charge, on which the allegation is based,
>
> unless, having regard to the merits of the case and the fairness of the proceedings, the required amendment cannot be made without injustice.
>
> (2) Before making any amendment under paragraph (1), the Committee shall consider any representations from the parties on this issue.

The panel considered that the proposed amendment more accurately reflected the evidence without altering the substance of charge 3. The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendment being allowed. It was further of the view that the proposed change further clarifies the interlinked charge at charge 6. It was therefore appropriate to allow the amendment, as applied for, to ensure clarity and accuracy.

Decision and reasons on an application of no case to answer

After the NMC had closed its case on facts, Dr Akinoshun made an application, on your behalf, supported by written submissions, that there is no case to answer in respect of charges 3, 4, 5 and 6. This application was made under Rule 24 (7) of the Rules. This rule states:

24 (7) Except where all the facts have been admitted and found proved under paragraph (5), at the close of the Council's case, and –

(i) either upon the application of the registrant, or …
(ii) of its own volition…

the Committee may hear submissions from the parties as to whether sufficient evidence has been presented to find the facts proved and shall make a determination as to whether the registrant has a case to answer.

In summary, Dr Akinoshun submitted that the evidence offered by the NMC in support of each of these charges was so weak and unreliable as to be incapable of proving the charges.

Mr Edenborough submitted that in respect of each charge there is sufficient evidence that a properly directed panel might find those charges proved. He submitted that this evidence comes from witnesses giving oral evidence and documentary evidence, including evidence related to Healthroster. He further submitted that these allegations related to you having received payment for hours not worked over a significant period of time, and that you had routine access to information from which you must have realised that you were not entitled to payment.

With regard to charge 3, Mr Edenborough submitted that there was evidence that you had access to the password of Mr 5, which enabled you to finalise bank shifts and thereby authorise payments to yourself which you were not entitled to receive. He submitted that if the panel was satisfied that there was sufficient evidence to prove charge 3, it must follow that there was also sufficient evidence to support the allegation of dishonesty in charge 6.

The panel took account of the written and oral submissions made by Dr Akinoshun, on your behalf, and by Mr Edenborough, on behalf of the NMC. The panel had careful regard to the oral evidence of all of the witnesses it had heard from and the documentary evidence provided.

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

The legal assessor advised the panel that the NMC has brought these proceedings and it is for the NMC to prove its case. You are not required to disprove the allegations and no useful purpose would be served in continuing these proceedings if the panel is satisfied that, on the basis of the case which has been put before it in respect of each charge, there is no real prospect of the NMC discharging that burden of proof. He advised that, at this stage, the panel needs to decide whether the evidence that the NMC has put before it on all, or at least the key, elements of each separate charge is sufficient to satisfy the panel that there may be a case to answer and could justify proceeding further. He referred the panel to the test laid down by *Lord Lane CJ* in the case of *R v Galbraith*. In relation to proceedings before this panel, that test is as follows:

1. *If there is no evidence against the registrant to support a particular charge then the case must be stopped in respect of that particular charge.*
2. *The more difficult situation is when there is some evidence but it is of a tenuous nature, in that it is:*
    i. *inherently weak or vague, or*
    ii. *inconsistent with other evidence*

    and the panel considers, taking the NMC's evidence at its highest, that it could not properly find the charge to be proved on the balance of probabilities, then the case must be stopped as far as that particular charge is concerned. However, where the NMC's evidence is such that its strength or weakness depends on the view to be taken of a witness' reliability, or other matters which are generally speaking within the province of the panel as judges of the facts, and where on one possible view of the facts, there is evidence on which the panel could properly come to the conclusion that a particular charge is proved, then the case should proceed.

In reaching its decision on the application, the panel carefully reviewed all of the evidence and applied the test in *R v Galbraith*. The panel carefully considered the quality of the evidence to decide whether it was capable of supporting each of the

charges to the required standard. The panel reminded itself, in accordance with the legal advice given by the legal assessor, that in regulatory proceedings the panel should ask itself the question ‘is there any evidence upon which a properly directed panel could find the alleged facts proved?’. If the answer is ‘Yes, it could’, not that it would, then the panel should proceed to hear your case, receiving evidence from you and any supporting witnesses or material.

The panel was of the view that there had been sufficient evidence to support the charges at this stage. It was therefore not prepared, based on the evidence before it, to accede to an application of no case to answer.

What weight the panel gives to any evidence remains to be determined at the conclusion of all the evidence.

Admissions and application to withdraw an admission

At the outset of the hearing you admitted charges 1 and 2.

At the conclusion of your evidence, the panel invited Dr Akinoshun on your behalf to consider whether you would wish to withdraw your admission to charge 1 on the basis that your evidence appeared to be inconsistent with that admission as you have indicated that you did work on each of the occasions listed in Schedule 1 to charge 1. Dr Akinoshun confirmed to the panel that you now wish to withdraw your admission.

Mr Edenborough did not object to this.

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

The panel was content with this and granted this application.

Decision and reasons on application to recall witnesses and admit telephone evidence

After the conclusion of your evidence, the panel heard an application by Mr Edenborough to reopen the NMC's case by recalling Mr 2 and Mr 3 and in addition calling a new witness, Mr 6.

With regard to Mr 6, Mr Edenborough informed the panel that Mr 6 had not been warned to give evidence in these proceedings previously. However, following new information identified during the course of your evidence and concerns expressed by the panel, the NMC had been able to make contact with Mr 6. He told the panel that Mr 6 would be available to give evidence via telephone in the afternoon on day 7 of this hearing.

Mr Edenborough further submitted that Mr 2 and Mr 3 should now be recalled to give further evidence in relation to your evidence. He submitted that their attendance by telephone was appropriate in view of the fact that the panel had already had the benefit of seeing Mr 2 and Mr 3 give evidence in person, and in view of the very limited area on which he would be questioning the witnesses.

Dr Akinoshun did not object to this application to call these witnesses. However, he submitted that Mr 2 and Mr 3 should attend the hearing in person rather than give their evidence by telephone.

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

The panel decided to grant the application to allow Mr 2 and Mr 3 to be recalled and to give their evidence by telephone. The panel considered that it had already had the opportunity to consider the credibility of each of these witnesses in the course of their extensive oral evidence and that it was sufficient for them to give any additional evidence via telephone.

With regard to Mr 6, the panel was of the view that his evidence would be likely to assist the panel in its determination on some of the factual issues. The panel took into account that Mr 6 was not available to attend the hearing and, in the circumstances, agreed that he should be permitted to give his evidence by telephone. The panel would give the

evidence what it judged to be appropriate weight once the panel had heard and evaluated all the evidence before it.

Decision on the findings on facts and reasons

In reaching its decisions on the facts, the panel took into account all of the oral and documentary evidence in this case together with the submissions made by Mr Edenborough, on behalf of the NMC and those made by Mr Akinoshun on your behalf.

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

The panel is 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 heard oral evidence from six witnesses tendered on behalf of the NMC. In addition, the panel heard oral evidence from you.

Witnesses called on behalf of the NMC were:

Ms 1 - Head of Counter Fraud and the Local Counter Fraud specialist for the Trust;
Mr 2 - Modern Matron for functional assessment, dementia and continuing care wards at the Trust;
Mr 3 - Lead Nurse for Healthroster and Safe Care;
Ms 4 - Ward Manager in May 2015 and Matron for Opal and Sapphire wards in August 2016;
Mr 5 - Ward Manager for Opal Ward between July 2010 and April 2015 and, Ward Manager for Jade Ward after April 2015; and
Mr 6 - Matron for Opal and Sapphire Ward from September 2012.

The panel first considered and made an overall assessment of the credibility and reliability of all of the witnesses it had heard from, including your evidence. The panel

made allowances for the fact that they were trying to recall events in the period of late 2014 to early 2016, and giving evidence in an unfamiliar environment.

The panel noted that Ms 1 was the Head of Counter Fraud and the Local Counter Fraud specialist for the Trust. The panel noted that she was knowledgeable, experienced and factual in her area of expertise. The panel found her to be helpful, professionally credible and reliable. Her evidence was balanced and measured and she attempted to assist the panel to the best of her abilities.

Mr 2 was the Modern Matron for functional assessment, dementia and continuing care wards at the Trust. He also carried out an investigation into matters relating to you on behalf of the Trust. He also provided evidence to the panel on a second occasion as a recalled witness during the resuming virtual hearing. The panel noted that Mr 2 was an experienced clinician. The panel found Mr 2 to be a helpful, balanced and credible witness who assisted the panel to the best of his ability. The panel noted that he worked in a different part of the Trust to you, which in the panel's view demonstrated his impartiality and objectivity.

Mr 3 was the Lead Nurse for Healthroster and Safe Care at the Trust. He also provided evidence to the panel on a second occasion as a recalled witness during the resuming virtual hearing. The panel was of the view that he was very experienced in his field and he was extremely knowledgeable. The panel found him to be a good and credible witness. The panel noted that he was particularly helpful in identifying matters in relation to dates and assisted the panel in understanding the Healthroster system. The panel noted that he provided further material and new evidence which was helpful to the panel. His evidence was balanced and measured and he accepted that there were points he could not recall or were outside his knowledge, and attempted to assist the panel to the best of his abilities.

Ms 4 was the Ward Manager in May 2015 and Matron for both Opal Ward and Sapphire Ward in August 2016. The remit and nature of her evidence was limited to her immediate involvement with you, and to that extent, the panel found her to be helpful, credible and reliable. Her evidence was balanced and measured and she accepted that

there were points she could not recall or were outside her knowledge. Although the panel considered that she was credible, it also noted that she came across as defensive in some of her answers. She gave direct answers to factual matters, but she was reluctant to comment on matters of opinion as to what a nurse in your position should have done.

Mr 5 was the Ward Manager for Opal Ward between July 2010 and April 2015 and, Ward Manager for Jade Ward after April 2015. The panel found him to be a reliable, credible and straightforward witness whose oral evidence was substantially consistent with the written statement he provided to the NMC. The panel found that he was confident about the times he authorised you to use his log in details. The panel noted that Mr 5 was sometimes unable to recall specific details, but he was open in acknowledging when he was unable to do so. He was knowledgeable and clear in his evidence and was generally able to assist the panel with its questions.

Mr 6 was the Matron for both Opal and Sapphire Wards from September 2012. He no longer works for the Trust, having left in 2017. The panel considered that he was clear and credible; he assisted the panel as much as he could. It was of the view that he had a good recollection of his conversations and regular meetings with you and that this information corroborated well with the rotas provided. The panel noted that Mr 6 was sometimes unable to recall specific details, although he was open in acknowledging when he was unable to do so.

The panel did not consider your evidence to be credible and reliable in several material respects relating to the charges. It noted a number of inconsistencies between your oral evidence and the documentary evidence before the panel. It further noted that you were at times unclear about your own recollection, and were seemingly confused and contradicted yourself, particularly during cross-examination. Whilst reiterating your belief that you had accrued 200 hours of work owing to you at one stage, you were unable to give a convincing explanation as to the basis of your belief when, at a later stage, it was shown to you that you owed a similar number of hours to the Trust.

Where your evidence conflicted with that of the other witnesses, the panel preferred their evidence to yours.

At the start of this hearing you admitted charge 2. This was therefore announced as proved.

Before considering the remaining charges in detail, the panel considered how much reliance to place on the Healthroster, Staff duty rotas and the Ward allocation sheets. It made its assessment of each document separately.

Healthroster - The panel heard evidence from Mr 3, whom it considered to be a knowledgeable and credible witness, that the system had evolved and increased in reliability since around 2014, when it was first used as input to the payroll. He told the panel that there had been a number of questions from staff regarding their hours shown on the Healthroster to have been worked due to occasional errors in data input to the system. The panel also heard from Mr 6 who told the panel that he recollects that the system had some errors but not to the extent alleged by you. On the basis of their evidence, the panel concluded that the initial teething problems had resolved by sometime in 2014 and that during the period to which this case relates, the Healthroster was a reliable system, albeit that anomalies arose from time to time as a result of incorrect information being entered. The panel accepted the evidence of Mr 3 that any such issues were resolved promptly when reported.

Staff duty rota - The panel noted that the staff duty rotas were, in general terms, a form of plan for the upcoming week which showed the registered nurses, HCAs and bank workers on duty for the week. The panel saw that at times the rotas had been updated. The panel noted that it had not heard any information to indicate that staff duty rotas were inaccurate and therefore the panel inferred that they were largely reliable.

Ward allocation sheet - The panel accepted the evidence of witnesses, including yourself, that the ward allocation sheet did not need to include a worker’s/nurse’s name in certain circumstances. The panel noted that ward allocations sheets were completed daily and used for allocating routine and regular clinical tasks to members of staff. If a

nurse’s job on the day was purely clinical or they were junior members of staff of band 5 or below, then their name should normally be on the allocation sheet.

Having made these general findings by way of background and context, the panel then considered each charge and made the following findings:

Charge 1

1) Received payment for one or more of the bank shifts set out in Schedule 1 which you did not work.

This charge is found proved in respect of all dates set out in Schedule 1 except for 5 June 2015.

In reaching this decision, the panel took into account all the evidence before it including the recordings in the Healthrosters, staff duty rotas and ward allocation sheets for each of the dates within Schedule 1.

The panel considered carefully the wording of charge 1, and in particular whether the words "which you did not work" implied that you did not work on those shifts at all or whether it might also imply that you did not do work which might properly count as a bank shift. The panel decided that the context of the charge is referring to "*receive payments for one or more of the bank shifts…",* the words "*which you did not work*" should also be taken to imply that the work should entail what is required for a bank shift.

The panel accepted the evidence of Ms 1 and Mr 2 that you could not legitimately claim your normal managerial work as bank work. Such managerial duties should be completed as part of your substantive contractual hours. The panel also accepted the evidence of Mr 6 that he never agreed to the carrying out of managerial tasks as bank time.

The panel noted your evidence that you spent your shifts working largely within a managerial capacity rather than in a band 5 role. It noted that when Mr Edenborough asked you whether you were working the bank shifts in a managerial capacity, any other particular role or whether you worked it as a regular nurse, you stated:

> *"…the shifts that I was claiming as bank was my managerial role. It wasn't like on the ward shifts."*

It further noted that when asked by Mr Edenborough why your name does not appear on the allocation sheet for 24 April 2015, you said:

> *"Yes, because it's a Friday… I am just thinking that probably they are thinking I'm there as a ward manager but if it was like Saturday and Sunday it would appear on the allocation sheet because I am not doing a manager role."*

It further noted:

> Mr Edenborough - *"So you have been clear that where you are replacing what would otherwise have been a pre-existing shift - you say you booked the hours in first, but you are replacing a substantive shift with a bank shift Monday to Friday then it will not show on the work allocation sheet because for your normal shifts you are never on the work allocation sheet because you are not junior staff. It is only when you are doing an extra bank shift that it appears?"*
>
> You – *"Yes."*

The panel considered each date in Schedule1 against the documentary evidence provided. It is not in dispute that you received payment for each of the bank shifts listed in Schedule 1. The panel took into account that all bank shifts should be recorded on the hard copy staff duty rota as well as the Healthroster. Furthermore, that if you had worked these shifts as a band 5 bank shift, it would be expected that your name would appear on the allocation sheet.

In relation to 24 April 2015, the panel noted that you were on the Healthroster as “E [early] bank shift as a band 5 and late DSN [Duty Senior Nurse] substantive”. However, it noted that you were not recorded on the ward allocation sheet for the early bank shift, nor were you recorded as doing a bank shift on the bank rota. The panel found the charge proved in respect of 24 April 2015.

In relation to 25 May 2015, the panel noted that this was a bank holiday and that you had fulfilled your 37.5 substantive hours that week and therefore you could have undertaken a bank shift. The panel noted that it had not been provided with an allocation sheet for this date. However, the panel was provided with the bank shift rota for 25 May 2015 on which your name did not appear. On the basis of this evidence, the panel found that it was more likely than not that you did not work a bank shift on this date. Accordingly, the panel found the charge proved in respect of 25 May 2015.

In relation to 2 June 2015, the panel noted that you were on annual leave on this date according to the Healthroster. It also noted that you could have worked bank shifts whilst on annual leave given you had completed 37.5 substantive hours that week. However, the panel noted your name did not appear on either the bank shift rota or the ward allocation sheet. The panel found the charge proved in respect of 2 June 2015.

In relation to 3 June 2015, the panel noted that you were on annual leave on this date according to the Healthroster. It also noted that you could have worked bank shifts whilst on annual leave given you had completed 37.5 substantive hours that week. However, the panel noted your name did not appear on either the bank shift rota or the ward allocation sheet. The panel found the charge proved in respect of 3 June 2015.

In relation to 5 June 2015, the panel noted that you were recorded as being on a night bank shift band 5 and early substantive shift according to the Healthroster. It had evidence that you were on a night shift according to the bank rota. However, your name was not recorded on the night allocation sheet. As the evidence was equivocal, the panel found the charge not proved in respect of 5 June 2015.

In relation to 3 July 2015, the panel noted that you were recorded as being on a *‘rest*

day and long day bank'. It further noted that there was a handwritten note on the bottom of the substantive rota to state that "*Linda* [you] *DSN away day*". It noted that no bank shift was recorded on the bank rota for this day. It appeared to the panel that, although you were expected to be on a bank shift, you had attended an away day for training, but had recorded it as a bank shift. Although there was no allocation sheet to indicate that you were not on a bank shift, the panel was satisfied on the evidence that you did not work a bank shift, because you were away. It follows that the charge is proved in respect of 3 July 2015.

In relation to 20 August 2015, the panel noted that you were recorded as being on a "*rest day and long day bank*" according to the Healthroster. It noted that no bank shift was recorded on the bank rota for this day. Furthermore, it noted that, according to the original DSN rota, this shift was allocated to you as a substantive shift. Although the panel did not have an allocation sheet to indicate that you were not on a bank shift, it was satisfied on the evidence that you did not work a bank shift, because you were away. It follows that the charge is proved in respect of 20 August 2015.

In relation to 8 October 2015, the panel noted that as you had not worked all of your substantive hours, having only worked 27.5 substantive hours that week, you should not have worked any bank shifts. In any event, it bore in mind that your name did not appear on either the bank shift rota or the ward allocation sheet. Accordingly, the panel found the charge proved in respect of 8 October 2015.

In summary, the panel found charge 1 proved in respect of all dates set out in Schedule 1, except for 5 June 2015.

Charge 3

3) Finalised your own bank shifts on one or more of the dates set out in Schedule 3 when you were not permitted to do so.

This charge is found proved in respect of all dates set out in Schedule 3 except for 5 June 2015 and 9 October 2015.

It was not in dispute that it was neither permitted nor possible for you, or any other member of staff, to finalise their own bank shifts, which would lead to payment on the payroll, using their own password on the Healthroster.

Mr 5 gave evidence, which the panel accepted, that he had on certain specific occasions authorised you to use his password to finalise your own bank shifts. He explained the position as follows:

> *"Well the system where we work is at the time we had to finalise bank shifts by Friday 12 o'clock and we had quite a few staff that do bank and I tend to finalise their shifts or Linda Mutero will finalise their shifts. Unfortunately, Linda could not finalise her own shifts so it needed me to finalise it on a Friday. On Fridays the managers are stuck in a meeting until after 12 o'clock so there have been several occasions where I have given my password and I actually validated that she did work the shift and I authorised her to use my password to validate her bank shifts, based on the fact that I wasn't there, I was in a meeting and if that's not done she won't get paid."*

Mr 5 further stated that that he only gave you permission to use his password to finalise your own bank shifts on specific occasions when he was present on the ward and able to verify that you had worked the bank shift but unable to finalise the bank shifts himself because of being engaged in meetings. He denied giving you a general permission to use his password.

Mr 5 further gave evidence, which the panel accepted, that he was on sick leave from 30 March 2015 until sometime in June 2015. He stated that he could not access the Healthroster from his home during that period and therefore did not finalise your bank shifts when he was on sick leave.

The Healthroster recorded your bank shifts as having been finalised by Mr 5 on the following dates, namely:

- 5 April 2015
- 26 April 2015
- 27 May 2015
- 3 June 2015
- 5 June 2015
- 21 June 2015
- 28 June 2015

The panel accepted the evidence of Mr 5, which was not challenged, that he was away on each of these occasions, either because he was on sick leave or because he was on a rest day. It follows that Mr 5 could not have finalised your bank shifts on any of these dates.

The panel further noted the evidence that you were present on the ward on each of these dates, apart from 5 June 2015, and therefore would have had the opportunity to finalise your own bank shifts using Mr 5's password, of which you had prior knowledge.

With regard to 5 June 2015, the panel noted that you were recorded on the Healthroster as being on a night bank shift and early substantive shift. However, it was not apparent whether you were present on the ward at the time that your bank shift was finalised.

The panel took into account your evidence by which you denied having used anyone else's password to finalise these shifts.

The panel also noted the evidence of Mr 5 that "*passwords were not confidential nor protected. Anyone could access another's password …. so we all knew each other's passwords."*

However, taking the above factors into account and bearing in mind that you alone benefited from your own bank shifts having been finalised using Mr 5's password, the

panel was satisfied on the balance of probabilities that you finalised your bank shifts on each of the above dates, when you were not permitted to do so, apart from 5 June 2015 where the evidence is equivocal.

The other dates in Schedule 3 where you are alleged to have finalised your own bank shifts are the following, namely:

- 12 July 2015
- 17 July 2015
- 31 July 2015
- 22 August 2015
- 23 August 2015
- 29 August 2015
- 30 August 2015
- 27 September 2015
- 2 October 2015
- 9 October 2015

On each of the above dates, the Healthroster records Mr 7 as having finalised your bank shifts.

Mr 7 did not give evidence to the panel. However, the panel accepted the evidence of Ms 1, supported by comprehensive documentary evidence, that, on each of these dates, Mr 7 was away, either because he had the day off (12 July 2015, 17 July 2015) and 9 October 2015) or because he was on annual leave (31 July 2015, 22 August 2015, 23 August 2015, 29 August 2015, 30 August 2015, 27 September 2015 and 2 October 2015).

It follows that Mr 7 could not have finalised your bank shifts on any of these dates.

The panel noted that you were present on the ward on each of these dates and therefore had the opportunity to finalise your own bank shifts, using Mr 7’s password.

With regard to 9 October 2015, you were recorded on the Healthroster as working a night shift. However, it was not apparent whether you were present on the ward at the time that your bank shift was finalised.

The panel took into account your evidence by which you denied having used anyone else's password to finalise these shifts.

Taking the above factors into account and bearing in mind that you alone benefited by your own bank shifts having been finalised using Mr 7's password, the panel was satisfied on the balance of probabilities that you finalised your bank shifts on each of the above dates, when you were not permitted to do so, apart from 9 October 2015 where the evidence is equivocal.

In summary, the panel found charge 3 proved in respect of all the dates set out in Schedule 3, except for 5 June 2015 and 9 October 2015.

Charge 4

4) Your conduct in Charge 1, above, was dishonest in that you knew you were not entitled to receive payment for shifts you had not worked.

This charge is found proved in respect of all dates set out in Schedule 1 except for 5 June 2015.

In reaching this decision, the panel took into account all of the evidence with which it had been provided. It found your evidence relating to this charge to be confusing and conflicting. You were unable to properly explain your reasons for claiming bank shifts in the circumstances. The panel considered that you were unable to provide it with a rational explanation for why you were entitled to receive additional payments for bank shifts, whilst not working your contracted hours, and claiming to have accumulated so many hours 'owed' to you.

The panel bore in mind that it had found charge 1 proved in respect of seven dates over a period of six months. This was not therefore a ‘one-off’ that might reasonably be considered a mistake. The panel heard no evidence that you had raised any concerns about overpayment or an unexpected accumulation of hours owed to you with Healthroster or payroll staff.

The panel heard evidence from you about how you managed the use of time owing and time owed back to staff on your ward. You said that as ward manager you would not support anyone allowing hours to accrue to such an extent. Mr 6 told the panel that you had managed your own subordinates hours “well”. The panel was of the view that although you managed your staff within Trust policy, you did not seem to apply this policy to yourself. The panel noted that Mr 6 confirmed in his evidence that he would not have authorised such shifts as set out in charge 1.

The panel was of the view that you were mainly undertaking managerial duties, and that you were fully aware that a bank shift could only be undertaken when required for clinical care. The panel concluded that you probably did some work during at least some of these shifts but such work did not qualify as bank shifts. The panel noted that you were an experienced and senior nurse and had been in the role for a sufficient period of time to be aware that bank shifts should only be undertaken when required by the ward.

In these circumstances, the panel determined that you knew you were not entitled to receive payment for bank shifts which you had not worked at all or had not worked as a bank nurse.

The panel considered that knowingly receiving payments for shifts you had not worked would be considered as dishonest by the standards of ordinary honest people.

Accordingly, the panel finds charge 4 proved in respect of all dates set out in Schedule 1 except for 5 June 2015.

Charge 5

5) Your conduct in Charge 2, above, was dishonest in that you knew you were not entitled to receive payment for bank shifts when you had not fulfilled your contractual hours.

This charge is found proved.

In reaching this decision, the panel took into account all the oral and written evidence it had heard.

The panel found charge 2 proved by way of your admission. The panel heard from a number of witnesses that bank shifts cannot be undertaken unless the substantive 37.5 hours per week were completed.

The panel noted that you were an experienced nurse who was proficient in the use of the Healthroster as confirmed by Mr 6. The panel noted that you were responsible for the rota on your ward and therefore you should have been fully aware of what your contractual substantive hours were. It was the uncontested evidence from a number of witnesses on behalf of the NMC that you were not permitted to carry out any bank shifts until you had completed your 37.5 substantive hours for the week in question. This was also made clear by the Trust policy. The panel noted that between February 2015 and April 2015 you had only worked two days each week and therefore you would have been fully aware that you were not fulfilling your substantive hours, and thus, you would not have been entitled to undertake any bank shifts or get paid for such shifts.

The panel further noted that it heard no evidence from you or any other witnesses that you had raised any concerns about the payment for bank shifts with a supervisor or raised it with payroll. The panel accepted the evidence of Mr 5, who did a similar role to yours at the time, that queries put forward to payroll were often answered promptly, and therefore the panel saw no reason why you had not raised any such concerns with them.

The panel also noted that, subsequent to the dates specified in charge 2, when you were challenged by Ms 4 about owing hours, she said that you were *"surprised as [you] thought you were owed hours".* It noted that Ms 4 stated in her witness statement:

> *"When I reviewed the healthroster you could automatically see that Linda was owing 192 hours to the Trust…*
>
> *I do not remember what date this was, but I recall Linda coming into my office in relation to some other matter. I casually asked her whether she knew that she was owing hours to the Trust. Linda said no, in fact Linda believed that she was owed hours by the Trust."*

In these circumstances, the panel determined that you knew you were not entitled to receive payment for 21 bank shifts when you had not fulfilled your contractual hours.

The panel considered that knowingly receiving payments for bank shifts when you knew you had not fulfilled your contractual hours would be considered as dishonest by the standards of ordinary honest people.

Accordingly, the panel finds charge 5 proved.

Charge 6

6) Your conduct in Charge 3, above, was dishonest in that you knowingly authorised payment to yourself for shifts you were not entitled to receive payment for.

This charge is found proved.

The panel was satisfied on the evidence that you had finalised your own bank shifts when you were not permitted to do so, in order to authorise payment to yourself for shifts that you had not worked. You sought to conceal this by using the log in details of Mr 5 and Mr 7 respectively. The panel noted that this course of conduct occurred on 15

occasions over a period of six months. The panel was satisfied that this course of conduct was dishonest.

Accordingly, the panel finds charge 6 proved in respect of all dates except for 5 June 2015 and 9 October 2015 on the basis that the latter two dates were found not proved in relation to charge 3.

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 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 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, your fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct and impairment

Mr Edenborough invited the panel to take the view that your actions amount to a breach of 'The Code: Professional standards of practice and behaviour for nurses and midwives' (2015) ("the Code"). He then directed the panel to specific paragraphs and standards and identified where, in the NMC's view, your actions amounted to a breach of those standards. He submitted that the nature of the concerns in this case is not a

straightforward one as it relates to dishonesty. He submitted that although aggravating and mitigating features are a point to raise at the sanction stage of these proceedings, these are also relevant factors in considering the nature and seriousness of your misconduct. He submitted that there is evidence of misuse of power and trust as you had used your seniority to access Healthroster and to finalise shifts. He further submitted that you personally gained financially through your dishonesty and that this conduct was deliberate and continued over nine months. Mr Edenborough submitted that by acting dishonestly over a lengthy period of time whilst in a senior position, your actions fell far below the standards expected of a registered professional and were therefore serious enough to amount to misconduct.

Mr Edenborough then moved on to the issue of impairment, and given the nature of the concerns, addressed the panel on the need to have regard to protecting the wider public interest. He also invited the panel to consider whether your past actions brought the profession into disrepute.

Mr Edenborough invited the panel to consider your level of insight into the charges found proved, in assessing whether you were liable to repeat these actions in the future. He submitted that there may be less opportunity in future to repeat the misconduct, as stated by you within your reflective statement. However, he reminded the panel that remediation in cases such as this which involved dishonesty is somewhat different. He submitted that by acting dishonestly on a number of occasions, your actions were so serious that a finding of impairment, in any event, was necessary on public interest grounds.

Dr Akinoshun submitted that you accept the panel's earlier findings and that you have made significant progress since the incident. He accepted on your behalf that the conduct found proved amounted to misconduct.

Dr Akinoshun submitted that you have had significant time to reflect on your actions considering that these events occurred in 2015. Dr Akinoshun submitted that you have demonstrated remorse and have apologised for your practice having fallen below the standards expected of a registered nurse. He informed the panel that you had taken

steps to remediate your past misconduct. He drew the panel's attention to your reflective piece in which you focus on your new role as a band 5 nurse and how you have stepped away from any managerial duties. He submitted that you have demonstrated that you are able to recognise your mistakes. He reminded the panel that you had genuinely believed that you were owed hours rather than you having owed the Trust hours. He further submitted that, since the incidents, you have completed training in a number of related areas to address the issues relating to dishonesty. Dr Akinoshun emphasised that this was a series of "naive errors" and that, given you have been working for a lengthy period of time in a health care setting without any further concerns, demonstrates that the risk of repetition is 'nil' in this case.

Dr Akinoshun submitted that you are of previously good character and that you have demonstrated a sufficient level of insight into your past misconduct. He invited the panel to consider that, whilst there were areas in your practice that were deemed concerning, this risk is now 'nil'.

Dr Akinoshun submitted that given your insight, remorse, remediation and low risk of repetition your fitness to practise is currently not impaired.

The panel has accepted the advice of the legal assessor which included reference to a number of relevant judgments.

Decision and reasons 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.'*

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 your actions did fall significantly short of the standards expected of a registered nurse/midwife, and that your actions amounted to a breach of the Code. Specifically:

> *"**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…"*

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 them individually and collectively. It took account of all the evidence before it and the circumstances of the case as a whole. The panel noted that you accept the panel's decision on facts and accept the subsequent misconduct.

The nature of the case which the panel found proved was that, over a period of nine months, you dishonestly claimed for bank shifts to which you were not entitled and this misconduct included finalising your own bank shifts. In respect of charge 3 and related charge 6, you sought to conceal your dishonesty by using the log-in details of two senior colleagues. As a manager and a senior nurse, you were in a position of responsibility and were trusted to act with honesty and integrity. You abused the trust placed in you both by your employer and your colleagues. This was a systematic course of dishonest and deceitful conduct for personal gain.

Although, following its findings of fact, the panel offered you an opportunity to provide some further explanation for your conduct, whether in relation to your personal circumstances at the time or otherwise, you declined to do so.

The panel determined that the facts found proved 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 and midwives 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 and midwives with their lives and the lives of their loved ones. To justify that trust, nurses and midwives 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 *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin) 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) …*
>
> *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 recognised that this was not a case where there were any concerns with your clinical practice. However, misconduct involving extensive and prolonged dishonesty and falsification of records, gives rise to concerns for public protection because it undermines trust in your integrity as a member of the profession.

The panel determined that limbs b, c and d of Dame Janet Smith's test as set out in the Fifth Report from Shipman were engaged by your past actions. The panel considered that members of the public and the profession would expect nurses to behave with honesty and integrity, which are fundamental tenets of the profession. By acting dishonestly on a number of occasions you not only breached fundamental tenets of the profession, but you also brought the profession into disrepute.

In assessing whether you are liable to bring the profession into disrepute and breach fundamental tenets of the profession and to behave dishonestly in the future, the panel assessed your levels of insight and remediation. The panel recognised that you demonstrated proper remorse within your reflective statement dated 23 February 2021.

The panel was of the view that you had demonstrated some insight in that you said you have reflected on your past misconduct. However, the panel considered that your insight was deficient in that you failed to give any explanation for your dishonest conduct or why it would not occur in the future. There was even some suggestion by Dr Akinoshun on your behalf that you still maintained that it was a mistake rather than a deliberate course of conduct. The panel considered this was apparent in your reflective statement which centred on you having restricted yourself to a role without any managerial duties. The panel could not be satisfied that you fully understood the issue that was central to your case, namely dishonesty. In this respect, whilst you had

demonstrated some insight, the panel considered this was limited and not fully developed.

With regard to remediation, the panel acknowledged that you were regarded as a good and competent nurse who was previously honest. It particularly bore in mind that Mr 6 stated: "*I can`t believe Linda would have intended to act fraudulently with this level of misconduct as is suggested by the line of enquiry. I can only imagine that she naively claiming back what she was owed through her dedication and commitment to the service.*" The panel also took into account the testimonial from the Recruitment Consultant dated 17 February 2021 which stated that you had worked for him since February 2016 and that he had *"no reason to question your integrity, trustworthiness or honesty".*

The panel recognised that dishonesty by its nature is difficult to remediate. However, it is not incapable of being remediated. The panel considered that dishonest behaviour could be remediated through the demonstration of sufficient insight into the circumstances and factors giving rise to you succumbing to the temptation to be dishonest, as well as how your actions found proved were unacceptable and their impact or potential impact on the reputation of the profession. As such levels of insight were lacking in your case, the panel did not consider that the misconduct had been remediated. The panel recognised that you did give this issue some consideration within your reflective statement and that you have been working well within your current role. However, the panel was of the view that you failed to fully appreciate the concerns that had been identified. A nurse must act with integrity and honesty in her dealings with patients, colleagues and her employer. The panel therefore considered that there was a risk of repetition of dishonest conduct and that a finding of impairment is required for the protection of the public.

The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health safety and wellbeing of the public and patients, and to uphold and protect the wider public interest, which includes promoting and maintaining public confidence in the nursing profession and upholding the proper professional standards for members of the profession.

The panel determined that a finding of impairment on public interest grounds is also required in this case. A reasonable and fully informed member of the public would expect a finding of impairment to follow such dishonest conduct. Any other outcome would undermine confidence in the profession and in its regulator.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired by reason of your misconduct, on public protection and public interest grounds.

Sanction

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike your name off the register. The effect of this order is that the NMC register will show that you have 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 and the "Considering guidance for serious cases" document marked SAN-2 updated in June 2020. The panel accepted the advice of the legal assessor.

Submissions on sanction

Mr Edenborough set out the NMC's position with regard to the aggravating and mitigating features in this case. He informed the panel that the NMC were seeking the imposition of a strike-off order. He submitted that the charges are serious and that, although not clinical, this dishonesty was at the higher end of the spectrum. He submitted that your conduct is incompatible with your continued registration, as this was an abuse of your position of trust and where you personally gained financially through systematic dishonest conduct which occurred over a period of nine months.

Dr Akinoshun submitted that your actions fall short of the ultimate sanction. He acknowledged that this was a serious matter, but asked the panel to consider where the level of dishonesty lies.

Dr Akinoshun reminded the panel of your long nursing career with "*previous impeccable character"*, and that there had been no concerns regarding your clinical practice. Dr Akinoshun submitted that you have shown remorse and insight into your past misconduct, as set out in your reflective statement, and that your conduct was an isolated incident. He asked the panel to take into account the reference to your "*dedication and commitment to the service"* by Mr 6 and the testimonial from the Recruitment Consultant dated 17 February 2021, stating that you had worked for him since February 2016 and that he had *"no reason to question your integrity, trustworthiness or honesty".*

Dr Akinoshun submitted that there had been no risk of harm to patients as a result of your misconduct.

Dr Akinoshun submitted that you have attempted to remediate your past misconduct through training. He reminded the panel that you have been fully engaging with these NMC proceedings and that all the hours you wrongly accrued had been paid back to the Trust. He also told the panel of your personal circumstances: that you are a single parent of two children, for whom you are the main bread winner and you make regular payments to support your parents who live in Africa. He emphasised the serious effects that a striking-off order would have on you. He also submitted that there was a public interest in a clinically competent nurse being allowed to continue in practice.

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 reminded itself that over a period of nine months, you dishonestly claimed payment for bank shifts to which you were not entitled. This misconduct included finalising you own bank shifts and concealing your dishonesty by misusing the log-in details of two senior colleagues and thereby fabricating Trust records. As a manager and a senior nurse, you were in a position of responsibility and were trusted to act with honesty and integrity. You abused the trust placed in you both by your employer and your colleagues. This was a systematic and prolonged course of dishonest and deceitful conduct for personal gain.

The panel took into account the following aggravating features:

- You were in a position of trust as a senior nurse, which you abused for financial gain;
- This was a pattern of dishonest behaviour which was systematic and continued over nine months;
- Your insight into your misconduct has been limited, particularly in relation to the effects on colleagues. The panel did not receive any explanation as to why you acted in such a manner;
- Whilst no patients were put at direct risk of harm, your willingness to act dishonestly, to abuse the trust placed in you by your colleagues and employer and to fabricate records to conceal your dishonesty, give rise to a risk of repetition with potential harm to patients.

The panel also took into account the following mitigating features:

- You have demonstrated significant remorse;
- The positive testimonials provided attesting to your clinical competence;
- Previous good character prior to these incidents in an otherwise long and unblemished career;
- No direct patient harm was caused.

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 and public interest 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 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 your registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the findings, including sustained dishonesty, in this case. The misconduct identified in this case was not related to clinical practice and as such is not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case and would not otherwise be in the public interest.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that a 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 conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The sustained dishonesty and deception indicated a deep seated attitudinal problem into which you have little, if any, insight. The panel considered that, given the level of dishonesty evidenced by your actions, a suspension order would not be a sufficient, appropriate or proportionate sanction.

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

The panel considered that your misconduct met all the above criteria and that the appropriate and proportionate sanction is a striking-off order. Having regard to the effect of your actions in bringing the profession into disrepute by damagingly affecting the public's view of how a registered nurse should conduct herself, the panel has concluded that nothing short of a striking-off order 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 you 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 your own interest until the striking-off 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 Edenborough. He submitted that, due to the panel making a strike-off order, an interim order was required to protect the public and the public interest. Mr Edenborough invited the panel to make an interim suspension order for a period of 18 months.

Dr Akinoshun submitted that an interim order is not necessary given that you have worked for almost 16 years without any concerns other than this incident. He further submitted that you have since been working without any further concerns either.

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 cover any appeal period.

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

That concludes this determination.