Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Meeting
Thursday, 7 October 2021 – Friday, 8 October 2021

Virtual Meeting

Name of registrant:	Barbara Moore	
NMC PIN:	07F0047C	
Part(s) of the register:	Registered Nurse – Sub-part 1 Adult Nursing – June 2007	
Area of registered address:	Buckingham	
Type of case:	Misconduct and Conviction	
Panel members:	John Vellacott Linda Tapson Alex Forsyth	(Chair, Lay member) (Registrant member) (Lay member)
Legal Assessor:	Charles Parsley	
Panel Secretary:	Philip Austin	
Facts proved by admission:	All charges	
Facts not proved:	None	
Fitness to practise:	Currently Impaired	
Sanction:	**Striking-off order**	
Interim order:	**Interim suspension order (18 months)**	

Decision and reasons on service of Notice of Meeting

The panel received information and advice from the legal assessor concerning service of the notice of meeting.

The notice of meeting was sent by the Nursing and Midwifery Council's ("NMC") case officer in a secure and encrypted fashion to the email address of Mrs Moore on the NMC register on 26 August 2021. The panel noted that the emergency statutory instrument in place allows for electronic service of the notice of meeting to be deemed reasonable in the current circumstances, involving Covid-19. Whilst there was correspondence between the NMC and the Royal College of Nursing ("RCN") contained within the bundle of documents, the panel received information which suggested they had stopped acting on behalf of Mrs Moore on 3 February 2020.

The panel was aware that as this matter is being considered at a meeting, Mrs Moore would not be able to attend. However, Mrs Moore had been sent all of the evidence relating to this matter, and was informed that this meeting would take place on or after 4 October 2021. Miss Hughes was also asked to provide comment no later than 27 September 2021 by using the response form attached to the notice of meeting, if she had anything that she wanted the panel to take account of when considering this matter. She was also invited to send relevant documents such as training certificates, references and testimonials.

The panel noted that whilst Mrs Moore did not respond to the notice of meeting, she had previously completed a Case Management Form ("CMF") dated 22 September 2020, indicating that she would not attend a hearing if one is listed to consider this matter. Furthermore, Mrs Moore had also responded to the charges against her in the same document, and the panel noted that there did not appear to be any material areas of dispute in relation to the facts of this case.

In having regard to the above, the panel was of the view that referring this matter to a substantive hearing would not serve any useful purpose. It determined that it had all the information necessary before it to reach a decision on this matter, having regard to the documentary evidence received.

The panel noted that the notice of meeting had been sent on 26 August 2021, which was more than 28 days before this meeting. The panel was satisfied that there was good service of the notice of meeting in accordance with Rules 11A and 34 of the Fitness to Practise Rules 2004 (as amended) ("the Rules").

Details of charge:

That you, a registered nurse:

1. Between 16 May and 17 May 2019, consumed a quantity of Oramorph belonging to Castel Froma.

2. Your actions in charge 1 above were dishonest in that you knew the Oramorph you consumed did not belong to you and had not been prescribed to you.

3. Between 16 May and 17 May 2019, replaced the Oramorph you had consumed in charge 1 above with a quantity of water.

4. Your actions in charge 3 above were dishonest in that you were attempting to conceal the fact you had taken the Oramorph.

5. Between 19 May and 20 May 2019, consumed a quantity of Oramorph belonging to Castel Froma.

6. Your actions in charge 5 above were dishonest in that you knew the Oramorph you consumed did not belong to you and had not been prescribed to you.

7. Between 19 May and 20 May 2019, replaced the Oramorph you had consumed in charge 5 above with a quantity of water.

8. Your actions in charge 7 above were dishonest in that you were attempting to conceal the fact you had taken the Oramorph.

9. Between 30 May 2019 and 1 June 2019, consumed a quantity of Oramorph belonging to Castel Froma.

10. Your actions in charge 9 above were dishonest in that you knew the Oramorph you consumed did not belong to you and had not been prescribed to you.

11. Between 30 May and 1 June 2019, replaced the Oramorph you had consumed in charge 9 above with a quantity of water.

12. Your actions in charge 11 above were dishonest in that you were attempting to conceal the fact you had taken the Oramorph.

13. Between 1 June and 2 June 2019, consumed a quantity of Oramorph belonging to Castel Froma.

14. Your actions in charge 13 above were dishonest in that you knew the Oramorph you consumed did not belong to you and had not been prescribed to you.

15. Between 1 June and 2 June 2019, replaced the Oramorph you had consumed in charge 13 above with a quantity of water.

16. Your actions in charge 15 above were dishonest in that you were attempting to conceal the fact you had taken the Oramorph.

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

Background

The NMC received a referral in relation to Mrs Moore on 18 June 2019 from Castel Froma, a residential care unit for the treatment, care and rehabilitation of patients with acquired brain injury who are, by virtue of their needs, highly vulnerable. At the material time of the alleged events, Mrs Moore was employed as a registered nurse.

It is alleged that these issues first came to light during a covert investigation into missing controlled drugs.

Mr 1 had allegedly first noticed that a bottle of the drug Oramorph did not look as she had expected it to. Mr 1 was of the view that the contents of the bottle looked like water as it

had more of a liquid form, and this concerned her as Oramorph is usually quite viscous. This was allegedly reported to management and a system of covertly checking the contents of the Oramorph bottles was implemented on a twice-daily basis between 6 May 2019 and 3 June 2019.

Following this covert review of the Oramorph, it was allegedly discovered that the bottles had been diluted with water on four occasions. On each occasion, the dilution was found to have occurred during the night shift when Mrs Moore was the only registered nurse on the unit during those times.

A check was also allegedly made of the CCTV which covers the drugs cabinet. This allegedly showed Mrs Moore going to the drugs cabinet, however, it was not conclusive in showing her consuming the Oramorph or diluting the bottles. Owing to the inconclusive nature of the CCTV evidence, an alleged cross-check was made of the medication administration charts of the residents and it was found that no drugs were administered at times that corresponded with Mrs Moore going to the drugs cabinet.

Mrs Moore was interviewed by Ms 2 during the investigatory process. Mrs Moore allegedly admitted to consuming Oramorph and diluting the bottles with water to conceal her actions during the course of the interview.

As a result of the investigatory process, Mrs Moore was dismissed from Castel Froma on 18 June 2019.

Decision and reasons on facts

The panel had sight of the CMF document dated 22 September 2020 which was completed by Mrs Moore. In this document, Mrs Moore had provided full admissions to all of the charges before it.

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

In taking account of all the above, the panel was satisfied that Mrs Moore had provided clear and unambiguous admissions to the charges before it. The panel therefore announced all of the charges proved by way of admission.

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 Mrs Moore'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. Firstly, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Mrs Moore's fitness to practise is currently impaired as a result of that misconduct.

Representations on misconduct

The panel had sight of the NMC's statement of case, which reads as follows:

> "*When defining what amounts to misconduct, the following principles can be taken from the relevant case law:*

'Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances' as per Lord Clyde in Roylance v General Medical Council [1999] UKPC 16

Misconduct must be 'sufficiently serious that it can properly be described as misconduct going to fitness to practise' as per Elias LJ in R (on the application of Remedy UK Ltd) v General Medical Council [2010] EWHC 1245 (Admin)

'Obviously, dishonest conduct can very easily be regarded as serious professional misconduct' as per Mr Justice Collins in the case of Nandi v General Medical Council [2004] EWHC 2317 (Admin)

The conduct alleged in these charges involved conduct which fell far short of what is expected of a registered professional nurse and was very serious, having the potential to cause patient harm.

The acts of dishonesty, in particular the Registrant's attempts to conceal her actions were particularly serious as any such conduct by its nature is what could cause patient harm".

Decision and reasons on misconduct

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

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 Mrs Moore's actions did fall significantly short of the standards expected of a registered nurse, and it considered them to have amounted to several breaches of the Code. Specifically:

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

To achieve this, you must:
20.1 Keep to and uphold the standards and values set out in the Code.
20.2 Act with honesty and integrity at all times treating people fairly without discrimination, bullying or harassment.
20.8 Act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to.
20.9 maintain the level of health you need to carry out your professional role..."

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, in these circumstances, the panel decided that Mrs Moore's actions in each of the charges found proved fell significantly short of the standards expected and therefore amounted to misconduct.

The panel noted that the concerns relate to Mrs Moore's conduct and behaviour, whilst she was on shift as a registered nurse.

The panel considered the charges to be extremely serious, particularly due to the vulnerability of the type of residents involved and Mrs Moore's dishonesty. Mrs Moore had stolen Oramorph from Castel Froma on four occasions, consumed the medication whilst on shift, and then calculatedly attempted to conceal her actions by filling the Oramorph bottles with water.

The panel considered Mrs Moore's dishonesty to relate directly to patient care as residents, colleagues, and the wider public would have been misled in so far as what was actually being administered to residents requiring Oramorph, had Mrs Moore's conduct gone undetected.

The panel was of the view that Mrs Moore had exposed residents in her care to a significant risk of unwarranted harm, again, noting as it did, that these residents were extremely vulnerable due to the nature of their health conditions. Her actions could have had serious ramifications for the health and wellbeing of the residents at Castel Froma.

The panel was of the view that other registered nurses would consider Mrs Moore's actions to be deplorable in the particular circumstances of this case.

The panel found that Mrs Moore's actions in all of the charges did fall seriously short of the conduct and standards expected of a registered nurse and amount to misconduct.

Upon finding that Mrs Moore's actions amounted to misconduct, the panel received further paperwork from the NMC. This consisted of an additional charge, proof of posting bundle, and substantive meeting bundle, the latter providing evidence of a memorandum of conviction and a Police report.

The panel noted that the new information before it related to a conviction. It therefore considered it appropriate to update the charge sheet at this point to better reflect the case it was now being asked to consider.

Details of charge:

Misconduct charges:

That you, a registered nurse:

1. Between 16 May and 17 May 2019, consumed a quantity of Oramorph belonging to Castel Froma.

2. Your actions in charge 1 above were dishonest in that you knew the Oramorph you consumed did not belong to you and had not been prescribed to you.

3. Between 16 May and 17 May 2019, replaced the Oramorph you had consumed in charge 1 above with a quantity of water.

4. Your actions in charge 3 above were dishonest in that you were attempting to conceal the fact you had taken the Oramorph.

5. Between 19 May and 20 May 2019, consumed a quantity of Oramorph belonging to Castel Froma.

6. Your actions in charge 5 above were dishonest in that you knew the Oramorph you consumed did not belong to you and had not been prescribed to you.

7. Between 19 May and 20 May 2019, replaced the Oramorph you had consumed in charge 5 above with a quantity of water.

8. Your actions in charge 7 above were dishonest in that you were attempting to conceal the fact you had taken the Oramorph.

9. Between 30 May 2019 and 01 June 2019, consumed a quantity of Oramorph belonging to Castel Froma.

10. Your actions in charge 9 above were dishonest in that you knew the Oramorph you consumed did not belong to you and had not been prescribed to you.

11. Between 30 May and 01 June 2019, replaced the Oramorph you had consumed in charge 9 above with a quantity of water.

12. Your actions in charge 11 above were dishonest in that you were attempting to conceal the fact you had taken the Oramorph.

13. Between 01 June and 02 June 2019, consumed a quantity of Oramorph belonging to Castel Froma.

14. Your actions in charge 13 above were dishonest in that you knew the Oramorph you consumed did not belong to you and had not been prescribed to you.

15. Between 01 June and 02 June 2019, replaced the Oramorph you had consumed in charge 13 above with a quantity of water.

16. Your actions in charge 15 above were dishonest in that you were attempting to conceal the fact you had taken the Oramorph.

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

Conviction charge:

That you, a registered nurse:

1. At Coventry and Warwickshire (Leamington) Magistrate's Court on 6 December 2019 were convicted of Theft contrary to section 1(1) and 7 of the Theft Act 1968.

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

Decision and reasons on facts relating to conviction:

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

It went on to consider the following charge:

That you, a registered nurse:

1. At Coventry and Warwickshire (Leamington) Magistrate's Court on 6 December 2019 were convicted of Theft contrary to section 1(1) and 7 of the Theft Act 1968.

This charge is found proved

The panel noted that charge 1 concerns Mrs Moore's conviction and, having been provided with a copy of the memorandum of conviction, the panel found the facts of the matter proved in accordance with Rule 31 (2) and (3). These state:

*'**31.**— (2) Where a registrant has been convicted of a criminal offence—*

(a) a copy of the certificate of conviction, certified by a competent officer of a Court in the United Kingdom (or, in Scotland, an extract conviction) shall be conclusive proof of the conviction; and

(b) the findings of fact upon which the conviction is based shall be admissible as proof of those facts.

(3) The only evidence which may be adduced by the registrant in rebuttal of a conviction certified or extracted in accordance with paragraph (2)(a) is evidence for the purpose of proving that she is not the person referred to in the certificate or extract.'

The panel noted that the memorandum of conviction, dated 11 December 2019, confirmed that Mrs Moore had pleaded guilty on 6 December 2019 to stealing Oramorph medication of an unknown value from Castel Froma between 15 May 2019 and 21 May 2019. Mrs Moore was made to pay costs of £100 to the Crown Prosecution Service ("CPS") and was made subject to a Community Order of carrying out unpaid work for 100 hours by 5 December 2020.

Therefore, the panel found charge 1 proved.

Having announced its findings on the conviction, the panel also went on to consider whether, on the basis of the fact found proved, Mrs Moore's fitness to practise is currently impaired by reason of her conviction. The panel noted that it was also now in a position to determine whether, on the basis of the fact found proved, Mrs Moore's fitness to practise is currently impaired by reason of her misconduct.

Representations on impairment (Misconduct)

The panel had sight of the NMC's statement of case, which reads as follows:

"*The following parts of 'The Code, professional standards of practice and behavior for nurses and midwives' are engaged in this case:*

- *Take measures to reduce as far as possible, the likelihood of mistakes, near misses, harm and the effect of harm if it takes place. (19.1)*
- *Take all reasonable personal precautions necessary to avoid any potential health risks to colleagues, people receiving care and the public. (19.4)*
- *Keep to and uphold the standards and values set out in the Code. (20.1)*

- *Act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment. (20.2)*
- *Act as a role model of professional behavior for students and newly qualified nurses and midwives to aspire to. (20.8)*

This case is both a public protection and public interest case. The public protection element stems from the potential for patient harm if they were to inadvertently be administered Oramorph which had been watered down as the pain relief required would not be effective. There is a strong public interest in regulatory action against a registrant who acts dishonestly and this is especially so in cases where the dishonesty involves hiding such actions (the watering down)"[sic].

Representations on impairment (Conviction)

The panel had sight of the NMC's statement of case, which reads as follows:

"*The following parts of 'The Code, professional standards of practice and behavior for nurses and midwives' are engaged in this case:*

- *Keep to and uphold the standards and values set out in the Code. (20.1)*
- *Keep to the laws of the country in which you are practicing. (20.4)*
- *Act as a role model of professional behavior for students and newly qualified nurses and midwives to aspire to. (20.8)*

This part of the case invokes the public interest. There is a strong public interest in regulatory action against a registrant who receives a criminal and convictions for offences of dishonesty are particularly serious given the level of trust the public place in the profession"[sic].

Decision and reasons on impairment

The panel next went on to decide if, as a result of her conviction and her misconduct, Miss Moore's fitness to practise as a registered nurse is currently impaired.

Registered 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 registered 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 *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) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*

b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or

c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or

d) has in the past acted dishonestly and/or is liable to act dishonestly in the future.'

The panel considered all of the above limbs to be engaged in this case.

The panel found that Mrs Moore had exposed residents in her care to an unwarranted risk of harm as she had consumed the Oramorph intended for them whilst on shift as a registered nurse. Whilst the panel was of the view that a registered nurse consuming Oramorph on shift presents its own dangers, vulnerable residents would also not have had the benefit of the medication themselves, had staff been successfully deceived into thinking that the Oramorph bottles had not been tampered with. Had Mrs Moore's misconduct gone undetected, residents at Castel Froma would have been administered water instead of Oramorph when treating their health conditions.

Furthermore, the panel also found Mrs Moore to have acted in a way that would have brought the nursing profession into disrepute, and it considered her to have breached fundamental tenets of the nursing profession, most notably by being dishonest.

The panel was of the view that Mrs Moore's professional conduct had seriously been brought into question as a result of her behaviour. The panel was also of the view that her actions could be demonstrative of a deep-seated attitudinal concern, as this is not the way a registered nurse is expected to conduct themselves. The panel noted that Mrs Moore had embarked on this course of conduct on four separate occasions, and she had also breached another provision of the Code:

"20.4 keep to the laws of the country in which you are practising"

In assessing Mrs Moore's level of insight, the panel had regard to her reflective statement dated 22 November 2020, as well as the CMF document dated 22 September 2020.

The panel was aware that Mrs Moore had admitted all of the charges at the outset of this substantive meeting. She had also reflected on the incidents in some detail within her reflective piece, and the panel considered her to have demonstrated genuine remorse for her conduct. The panel therefore considered Mrs Moore to have recognised that she had failed to act appropriately.

However, in having regard to the totality of the evidence before it, the panel determined that Mrs Moore has not sufficiently reflected on her past behaviour. The panel was of the view that she has not yet achieved a high degree of insight into the concerns identified and it was not satisfied that Mrs Moore fully understands or appreciates the extent of her actions. Mrs Moore's evidence appears to be largely self-reflective, commenting on how she was feeling at the time of the events, instead of focusing on how her actions would be perceived by residents, colleagues, the nursing profession and the wider public as a whole. Equally, Mrs Moore had not demonstrated consideration of how she would manage things differently in future, should she find herself in a similar set of circumstances.

Therefore, the panel found Mrs Moore to have only demonstrated limited insight into her misconduct and conviction.

In establishing whether Mrs Moore has remediated the behaviour that led to her conviction and the panel's finding of misconduct, the panel had regard to the factors set out in ***Cohen***. It considered whether Mrs Moore's conduct is capable of remediation, whether it has indeed been remediated, and whether it is highly unlikely to be repeated.

The panel noted that attitudinal concerns are often more difficult to remediate than clinical concerns, in principle. Mrs Moore has admitted being dishonest on four separate occasions and she was convicted of theft on 6 December 2019.

Furthermore, the panel noted that Mrs Moore has not worked as a registered nurse since being dismissed by Castel Froma on 18 June 2019 and, as such, has been unable to demonstrate any remediation by way of recent performance in a nursing environment. Mrs

Moore has also not sought to provide the panel with any training certificates or testimonials attesting to her good character. Whilst the panel noted that Castel Froma had no previous concerns relating to Mrs Moore's clinical nursing practice, the issues before the panel today relate solely to her conduct and behaviour.

Therefore, in taking account of all the above, the panel considered there to be very little evidence to demonstrate that Mrs Moore has remediated her misconduct and her conviction, or developed a significant amount of insight into the concerns identified.

The panel had insufficient evidence before it to allay its concerns that Mrs Moore may currently pose a risk to patient safety. In the absence of any evidence to the contrary, it considered there to be a risk of repetition of Mrs Moore's dishonesty, and a risk of unwarranted harm to patients in her care should she be permitted to practise as a registered nurse in future. Therefore, the panel decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel considered there to be a high public interest in the consideration of this case as it determined that a fully informed member of the public would be deeply concerned by its findings on the facts and misconduct. The panel concluded that public confidence in the nursing profession would be undermined if a finding of impairment was not made in this case in respect of both Mrs Moore's misconduct, and her conviction.. Therefore, the panel determined that a finding of impairment on public interest grounds was also required.

In taking account all of the above, the panel was satisfied that Mrs Moore's fitness to practise as a registered nurse is currently impaired on the grounds of 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 NMC Registrar to strike Mrs Moore's name off the NMC register. The effect of this order is that the NMC register will show that Mrs Moore has been struck off the NMC register.

Representations on sanction

The panel had sight of the NMC's statement of case, which reads as follows:

"*The NMC sanction bid for this case is – Striking Off Order.*

The following is relevant from the NMC sanction guidance:

From the section 'Considering sanctions for serious cases', a number of examples are provided which may indicate what the nurse or midwife has done is incompatible with continued registration. The following examples from the guidance may be relevant:

- *deliberately breaching the professional duty of candour by covering up when things have gone wrong, especially if it could cause harm to patients*
- *direct risk to patients*
- *premeditated, systematic or longstanding deception*

From the section of the guidance dealing with striking off orders the following guidance may be relevant:

> *'This sanction is likely to be appropriate when what the nurse, midwife or nursing associate has done is fundamentally incompatible with being a registered professional.'*

This case involves conduct so fundamentally incompatible with continued registration that striking-off is the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards"[sic].

Decision and reasons on sanction

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

Having found Mrs Moore's fitness to practise currently impaired by reason of her misconduct and conviction, 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.

In reaching its decision, the panel has had regard to all the evidence adduced in this case, along with the Sanctions Guidance (SG) published by the NMC. It noted that the decision on sanction is a matter for the panel independently exercising its own judgement.

The panel considered the following aggravating factors to be present in this case:

- Mrs Moore has been convicted of a serious criminal offence relating to her behaviour whilst on shift as a registered nurse.
- Mrs Moore exposed vulnerable residents to an unwarranted risk of harm in being under the influence of Oramorph whilst on shift, and potentially depriving them of important medication associated with their care.
- Mrs Moore had breached her duty of candour.
- Mrs Moore's dishonesty was repeated and calculated, and related directly to the care of residents.
- Mrs Moore attempted to conceal her actions.
- Mrs Moore lacks full insight into her dishonest conduct and has not attempted to remediate her practice.
- Mrs Moore's conduct is indicative of an underlying attitudinal issue.

The panel considered the following mitigating factors to be present in this case:

- Mrs Moore made admissions at an early stage.
- Mrs Moore has demonstrated genuine remorse for her misconduct and conviction.
- There is some evidence to suggest that Mrs Moore was going through difficult personal circumstances.
- Mrs Moore is of previous good character.

The panel noted that Mrs Moore had a lengthy nursing career prior to these incidents, with no previous regulatory findings against her.

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 not be proportionate, nor would it be in the public interest to take no action as this would not address the conviction or misconduct identified, nor would it safeguard patients.

Next, in considering whether a caution order would be appropriate in the circumstances, the panel took into account the SG, which 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 determined that a caution order would be inappropriate in view of the seriousness of the case, as Mrs Moore's conviction and misconduct was not at the lower end of the fitness to practise spectrum. It had identified both public protection and public interest concerns, and it determined that neither would be sufficiently addressed by the imposition of a caution order.

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

The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of Mrs Moore's conviction and misconduct. The panel noted that there were no identifiable aspects of Mrs Moore's nursing practice that needed to be addressed, as the concerns relate solely to her conduct and behaviour. It had considered

there to be evidence of an underlying attitudinal issue present in this case, and that this may prevent Mrs Moore from fully appreciating the significance of her actions and the impact they had on patients, colleagues, the nursing profession and the wider public.

In taking account of the above, the panel determined that placing a conditions of practice order on Mrs Moore's nursing registration would not adequately address the seriousness of this case, nor would it satisfy the public interest considerations.

The panel then went on to consider whether a suspension order would be an appropriate sanction.

The panel noted that Mrs Moore's dishonesty was repeated and calculated, as she had attempted to conceal her actions by filling Oramorph bottles with water so as to disguise her actions. The panel had found that Mrs Moore had deprived residents of Oramorph at Castel Froma, and she had also exposed them to a greater risk of unwarranted harm by consuming the medication whilst on shift on four occasions.

The panel considered Mrs Moore's conviction and misconduct to be extremely serious. It determined that her behaviour could not be regarded as 'trivial' and instead decided that it was a significant departure from the standards expected of a registered nurse. Mrs Moore had also breached numerous standards of the Code, as well as fundamental tenets of the nursing profession.

The panel noted that a registered nurse who has been found to have acted dishonestly always runs a risk of being removed from the NMC register. However, this risk is reduced should a registrant demonstrate a high level of insight, remorse, or remediation into their misconduct and conviction.

The panel noted that Mrs Moore had only offered limited evidence by way of insight into her misconduct and conviction, as well as little attempt to demonstrate remediation; despite having a substantial amount of time to reflect on her conduct and behaviour. The panel concluded that Mrs Moore has not attempted to address the outstanding concerns identified, nor has she yet fully understood the consequences of her actions. She has not provided evidence to assure this panel that she does not have an underlying attitudinal

issue and the panel was not satisfied that her behaviour was capable of remediation in any event.

Taking account of the above, the panel determined that Mrs Moore's misconduct and conviction was not merely a serious departure from the standards expected of a registered nurse and a serious breach of the fundamental tenets of the nursing profession, it was fundamentally incompatible with her remaining on the NMC register. It considered Mrs Moore's misconduct and conviction to rank highly on a spectrum of dishonesty. In the panel's judgment, to allow someone who had behaved in this way to maintain her NMC registration would undermine public confidence in the nursing profession and in the NMC as a regulatory body.

In reaching its decision, the panel bore in mind that its decision could have an adverse effect on Mrs Moore both professionally and personally. However, the panel was satisfied that the need to protect the public and address the public interest elements of this case outweighs the impact on Mrs Moore in this regard.

Balancing all of these factors and after 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 Mrs Moore's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct herself, the panel has concluded that nothing short of this would be sufficient in this case.

The panel considered that this order was necessary to mark the importance of maintaining public confidence in the nursing profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

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 is in Mrs Moore's own interest until the striking-off order takes effect.

Representations on interim order

The panel had sight of the NMC's statement of case, which reads as follows:

> *"An interim suspension is currently in place and expires 4 January 2021 (with a High Court application to extend pending).*
>
> *In the event of the panel imposing the Striking Off Order this interim order will cease to be effective.*
>
> *Any Order imposed by the panel will take effect 28 days from the Order being made unless an appeal against the panel's decision/sanction is made by the Registrant.*
>
> *If any such appeal is made by the Registrant the Order will not take effect until the Appeal has been determined.*
>
> *For these reasons, in the event of the panel making an Order, an Interim Suspension Order is applied for a period of 18 months. This order is necessary to protect the public in the event of an appeal being made as the appeal process can be lengthy. In the event of no appeal being made the Order will take effect after 28 days and the interim order will cease to have effect"*[sic].

Decision and reasons on interim order

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

The panel was satisfied that an interim order is necessary for the protection of the public and it 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. Owing to the seriousness of the misconduct in this case and the risk of repetition identified, it determined that Mrs Moore's actions were sufficiently serious to justify the imposition of an interim suspension order until the striking-off order takes effect. In the panel's judgment, public confidence in the regulatory process would be damaged if Mrs Moore would be permitted to practise as a registered nurse prior to the substantive order coming into effect.

The panel decided to impose an interim suspension order in the circumstances of this case. To conclude otherwise would be incompatible with its earlier findings.

The panel therefore imposed an interim suspension order for a period of 18 months.

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

That concludes this determination.