

Nursing and Midwifery Council
Fitness to Practise Committee
Substantive Meeting
26 – 27 October 2021

Nursing and Midwifery Council, Temple Court 13a Cathedral Road, Cardiff, CF11 9HA

Name of registrant:	Lesly Faisully Puertas
NMC PIN:	12D0812E
Part(s) of the register:	Registered Midwife – September 2012
Area of Registered Address:	London
Type of Case:	Misconduct / Conviction
Panel Members:	Caroline Healy (Chair, registrant member) Louise Poley (Registrant member) Nicola Dale (Lay member)
Legal Assessor:	Simon Walsh
Panel Secretary:	Caroline Pringle
Facts proved:	1 (misconduct) and 1(a) – 1(h) (conviction)
Facts not proved:	None
Fitness to practise:	Impaired
Sanction:	Striking-off order
Interim Order:	Interim suspension order (18 months)

Details of charge

Misconduct Charge

That you a registered midwife;

1. On or before the 23 July 2019 offered midwifery services in breach of an Interim Suspension Order that was imposed on the 10 June 2019.

In light of the above your fitness to practise is impaired by reason of your misconduct.

Conviction Charge

That you a registered midwife;

1. On the 29th July 2019 were convicted at Croydon Magistrates Court in respect of the following offences;
 - (a) On the 2nd May 2019 at Croydon University Hospital stole a Lloyds Bank debit card of value unknown belonging to Patient A contrary to section 1(1) and (7) of the Theft Act 1968.
 - (b) On the 2nd May 2019 at Croydon University Hospital stole a Halifax Bank debit card belonging to Mr 1 contrary to section 1(1) and (7) of the Theft Act 1968.
 - (c) On the 2nd May 2019 at Lidl, Thornton Heath committed fraud in that you dishonestly made a false representation, namely made payment for goods with a stolen Halifax bank card, intending to make a gain, namely obtain goods to the value of £22.18 for yourself and cause loss to Mr 1 or to expose that person to a risk of loss, contrary to section 1 and 2 of the Fraud Act 2006.

- (d) On the 2nd May 2019 at Tesco Esso, Thornton Heath committed fraud in that you dishonestly made a false representation, namely made payment for goods with a stolen Lloyds bank card, intending to make a gain, namely obtain goods to the value of £29.50 for yourself and cause loss to Patient A or to expose that person to a risk of loss, contrary to section 1 and 2 of the Fraud Act 2006.
- (e) On the 2nd May 2019 at Curry's Superstore, Brixton committed fraud in that you dishonestly made a false representation, namely made payment for goods with a stolen Halifax bank card, intending to make a gain, namely obtain goods to the value of £24.99 for yourself and cause loss to Mr 1 or to expose that person to a risk of loss, contrary to section 1 and 2 of the Fraud Act 2006.
- (f) On the 2nd May 2019 at Tesco Stores 4342, Streatham committed fraud in that you dishonestly made a false representation, namely made payment for goods with a stolen Lloyds bank card, intending to make a gain, namely obtain goods to the value of £18.80 for yourself and cause loss to Patient A or to expose that person to a risk of loss, contrary to section 1 and 2 of the Fraud Act 2006.
- (g) On or about the 18th November 2018 at Croydon University Hospital committed fraud in that, while occupying a position, namely a Band 7 Midwife in which you were expected to safeguard, or not act against, the financial interests of the NHS Croydon Health Services NHS Trust, you dishonestly abused that position intending thereby to make a gain, namely £300.27, for yourself and cause loss to NHS Croydon Health Services NHS Trust or expose that person to a risk of loss, contrary to sections 1 and 4 of the Fraud Act 2006.

(h) On or about the 9th December 2018 at Croydon University Hospital committed fraud in that, while occupying a position, namely a Band 7 Midwife in which you were expected to safeguard, or not act against, the financial interests of the NHS Croydon Health Services NHS Trust, you dishonestly abused that position intending thereby to make a gain, namely £245.14, for yourself and cause loss to NHS Croydon Health Services NHS Trust or expose that person to a risk of loss, contrary to sections 1 and 4 of the Fraud Act 2006.

In light of the above your fitness to practise is impaired by reason of your conviction.

Decision on service of notice of meeting

The panel considered whether notice of this meeting has been served in accordance with Rules 11A and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 ('the Rules').

The panel noted that written notice of this meeting had been sent to Miss Puertas' registered address by recorded delivery and by first class post on 16 September 2021. Royal Mail Track and Trace documentation confirmed that notice of this meeting was delivered and signed for at Miss Puertas' registered address on 17 September 2021.

The notice letter informed Miss Puertas that a panel of the Fitness to Practise Committee would hold a meeting to consider her case on or after 20 October 2021. The notice included the charges which the panel would consider at the meeting, as well as informing Miss Puertas that the panel would decide whether her fitness to practise is currently impaired as a result of those charges and, if so, whether a sanction is required. Miss Puertas was asked to provide any relevant submissions or documents for the panel by 14 October 2021. Included with the notice letter was also a form entitled 'Your response to the charges' on which Miss Puertas could indicate if she admitted any of the charges.

Background

Miss Puertas joined the NMC register in September 2012 and started employment as a band 6 midwife at Croydon Health Services NHS Trust ('the Trust') on 22 October 2012. On 26 February 2018, she was promoted to band 7 Labour Ward Coordinator.

On 13 December 2018 the Trust was alerted to the fact that Miss Puertas had authorised her own timesheets on 18 November and 9 December 2018. When initially questioned on 18 December 2018, she confirmed that she did work those shifts. However, when Miss Puertas' swipe cards were audited it was discovered that she had not worked those shifts. Miss Puertas was interviewed again on 22 January 2019 where she admitted that she had not worked the shifts on 18 November and 9 December 2018.

Miss Puertas was made subject to a final written warning, to remain on file for 18 months. She was also demoted to a band 6 midwife role with immediate effect and ordered to pay back the monies gained from the two shifts that she had not worked.

A further incident occurred on 1 May 2019. Miss Puertas was on duty and between 03.00 and 05.00 took over the care of Patient A. Patient A had been sent into the operating theatre for an emergency Caesarean section. Prior to attending theatre, Miss Puertas entered the room where Patient A had left her belongings. Once in there Miss Puertas took two bank cards out of Patient A's purse and then proceeded to theatre to assist with the care of Patient A.

When Miss Puertas finished her shift she drove to Lidl in Thornton Heath and used the stolen Halifax card belonging to Mr 1 (Patient A's husband) and purchased goods to the value of £22.18. From there she drove to Tesco Esso and paid for petrol to the value of £29.50, using Patient A's Lloyds bank card. Miss Puertas then drove to Curry's in Brixton and spent £24.99 using Mr 1's card. Later the same day Miss Puertas used Patient A's card at Tesco's in Streatham and purchased goods to the value of £18.80.

On 22 May 2019 Miss Puertas was interviewed by the police in relation to the false timesheets and the theft and use of bank cards from Patient A. She made full admissions.

Miss Puertas appeared at Croydon Magistrates Court on 29 July 2019 and pleaded guilty to the eight offence set out in charges 1(a) – 1(h). She was sentenced on 12 August 2019 as follows:

- 22 weeks imprisonment suspended for two years
- 200 hours of unpaid work in the community
- Rehabilitation activity requirement for 30 days
- To pay £500 compensation

Miss Puertas was referred to the NMC in relation to these matters. The first referral, which concerned the false timesheets, was received on 19 February 2019. The second referral, relating to the theft of Patient A's bank cards, was received on 23 May 2019.

As a result of these referrals, an NMC interim order hearing took place on 10 June 2019. A panel of the Investigating Committee imposed an interim suspension order for 18 months, which prevented Miss Puertas from practising as a midwife. A letter confirming this was sent to Miss Puertas on 11 June 2019.

On 25 July 2019 the NMC received a third referral regarding Miss Puertas. This referral alleged that Miss Puertas was offering midwifery services via a post on Facebook, in breach of her interim suspension order.

The panel was initially only provided with information relating to Miss Puertas' alleged breach of her interim order. Any reference to the underlying convictions or offending behaviour was redacted from the evidence before it. After the panel had reached its findings on misconduct, it was provided with the conviction charges and supporting evidence.

Decision and reasons on the misconduct charge

In reaching its decisions on the facts, the panel took into account all of the documentary evidence before it. This included a witness statement and exhibits from the referrer (the Associate Director of Midwifery at the Trust) and written responses from Miss Puertas.

The panel accepted the advice of the legal assessor. The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that the facts will be proved if the panel was satisfied that it was more likely than not that the incidents occurred as alleged.

Charge 1

That you a registered midwife;

- 1. On or before the 23 July 2019 offered midwifery services in breach of an Interim Suspension Order that was imposed on the 10 June 2019.*

This charge is found proved.

The panel had a copy of a letter sent to Miss Puertas by the NMC on 11 June 2019. This letter informed Miss Puertas that at an interim order hearing on 10 June 2019:

'...the panel decided to make an interim suspension order for 18 months. You can't work as a nurse, midwife or nursing associate for as long as this order is in place.

Your entry won't show on the register any more, and we won't confirm your registration to anyone who asks about it. The order will also show against your name on our 'search the register' section.'

On 2 July 2019 Miss Puertas emailed the NMC as follows:

'...I have received the letter of outcome and understand fully the consequences and instructions.

I just want some guidance into the subject of me moving forward. I know for certain that I'm not allowed nor wouldn't promote myself as a registered midwife, however, I need some guidance as to what is okay for me to say when meeting with career advisors for example: can I say qualified midwife and clarify that I don't work within the industry anymore or do I say I'm an Ex midwife?...

On 8 July 2019 an NMC Screening Case Officer replied:

'...You are still considered a Midwife and appear on our register as so, however, as a regulator we have suspended you from practising whilst we conduct a full investigation. Essentially, this means you are unable to practice as a midwife and would be in breach of the order if you did so. We always say, it is best to be transparent regarding the NMC investigation if you are applying for clinical roles...'

The panel was provided with a copy of a Facebook post made by Miss Puertas and posted to a local group. This read as follows:

'Holistic postnatal care service

FREE

FREE ZOOM 1:1 CALL WITH A MIDWIFE for your participation!!

Please all mummies out there I just need your much needed opinions

I want to serve the community well ! and I need your help to do it.

The survey is not long or complicated at all just 7 questions.'

There then followed a link to a survey.

The panel had regard to Miss Puertas' response to the NMC. In this she states that her Facebook post was not an attempt to offer midwifery services in breach of her interim order. She writes that:

'...this post was asking a particular community the opinion of a possible future service. As I was navigating decisions and steps to take in regards to what I could do in the near by future. The service post was described as a future service of massaging, bath compress and offering support during the postnatal period. At no point does this state as a midwifery service and the service offered does not at any point offer anything that is strictly reserved for midwives' practice only...

In regard to the Facebook post mentioning a chat with a midwife- At no point does it mention to be a chat with myself, nor did I have intentions of engaging in a chat with women anything midwifery related myself – this venture was at the time in the creating period alongside a personal friend that is a midwife.

The aim was to gather information where I could engage in further personal development which is what I have done throughout these years on the interim suspension.'

The issue the panel therefore had to determine was whether Miss Puertas' advert and/or survey amounted to her offering midwifery services in breach of the interim suspension order. The panel accepted that there was nothing within Miss Puertas' advertisement that suggested that she was the midwife that would be doing the 1:1 Zoom calls.

The panel next considered the survey. This opened with the following paragraphs

'A Professional bespoke postnatal service delivered to you with the ethos that our mind and body are integrated as one and are inseparable. I offer you a holistic approach using herbal compresses, baths, and massages, with built in time for

discussing your personal worries and needs. A service that allows you the opportunity to recover, relax and rebirth the new you.

My main focus is to support mothers with their new transition. An honest and gentle support to assist you in settling into your new family life. I ensure you will be well informed, supported throughout your time with me, leaving you feeling confident, vibrant to achieve greatness with the new chapter in your life.'

The survey then went on to ask seven questions about holistic postnatal therapy. The panel did not consider that any of these questions amounted to offering midwifery services. However, the eighth and final question was:

'8. Thank you for taking part in this survey, Would you like a 1:1 call via Zoom with me personally for free! I would be happy to provide you with professional advice with anything pregnancy related...'

The panel considered that the offer of '*professional advice with anything pregnancy related*' did amount to offering midwifery services. Furthermore, although Miss Puertas has stated that the calls would take place with a personal friend of hers who was a midwife, question 8 offered a Zoom call '*with me personally*', in the survey posted on Facebook by Miss Puertas. The panel considered that this strongly implied that the call would be with her. The panel was therefore satisfied, on the balance of probabilities that, this amounted to Miss Puertas offering midwifery services while subject to an interim suspension order.

Accordingly, charge 1 is proved.

Decision on misconduct

Having found charge 1 proved the panel went on to consider whether it amounted to misconduct. In reaching this decision the panel had regard to *The Code: Professional standards of practice and behaviour for nurses and midwives (2015)* ("the Code").

The panel was of the view that Miss Puertas' actions fell significantly short of the standards expected of a registered nurse, and amounted to a breach 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...

21 Uphold your position as a registered nurse or midwife

To achieve this, you must:

21.4 make sure that any advertisements, publications or published material you produce or have produced for your professional services are accurate, responsible, ethical, do not mislead or exploit vulnerabilities and accurately reflect your relevant skills, experience and qualifications

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that Miss Puertas' decision to offer midwifery services was a deliberate and flagrant breach of her interim suspension order, which had been imposed to protect the public. This not only had implications for the protection of the public but also demonstrates a disregard for the regulator and calls into question Miss Puertas' integrity.

In these circumstances, the panel determined that Miss Puertas' actions fell seriously short of the standards expected of a registered nurse or midwife and amounted to misconduct.

Decision and reasons on the conviction charges

The panel was provided with a memorandum of conviction which showed that on 29 July 2019 Miss Puertas was convicted at Croydon Magistrates Court of each of the offences set out in charges 1(a) to 1(h).

The panel was aware that Rule 31(2) provides that:

- (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.*

Having been provided with the relevant memorandums of conviction the panel found charges 1(a) to 1(h) proved.

Decision on impairment

The panel next went on to decide if, as a result of her misconduct and convictions, Miss Puertas' fitness to practise is currently impaired.

The panel had regard to Dame Janet Smith's test set out in her *Fifth Shipman Report* and approved in the case of *CHRE v NMC & Grant* [2011] EWHC 927 which states that, when considering impairment, a panel should consider:

'Do our findings of fact in respect of the [nurse's] misconduct ... 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 that limbs (a), (b), (c) and (d) were engaged in this case. It bore in mind that interim orders are imposed to protect the public, and that acting in breach of one could place patients at unwarranted risk of harm. In addition, while no physical harm had been caused to Patient A, the panel considered that Miss Puertas' theft would likely have placed Patient A at risk of emotional and psychological harm.

The panel considered that advertising services in breach of an interim suspension order, falsifying shifts for personal gain, and stealing bank cards from a patient were all inherently dishonest acts. The panel was also of the view that Miss Puertas' misconduct and her offending behaviour underlying the convictions breached the fundamental tenets of honesty and integrity and brought the midwifery profession into disrepute.

The panel then moved on to consider whether Miss Puertas is likely to repeat similar misconduct in the future.

The panel had an undated reflective piece from Miss Puertas in which she expressed remorse and insight for her criminal behaviour and provided an explanation regarding her personal circumstances at the time:

'...I am deeply remorseful and embarrassed for my actions. I understand the seriousness of my actions and also understand that I have let my team, the Trust I work in, my children and myself down.

...

I am a person who prides herself on my conduct both professionally and personally. I am the type of person who would not touch things that do not belong to me and I am completely disgusted with my behaviour that I have gone that far to commit this crime. I have never had any issues relating to my clinical practice or professional conduct. Nor have I ever been in trouble with the law.

...

Over the past year my life took a turn for the worst which have impacted my personal life dramatically and has in turn affected my professional working life, I was demoted to a rotational midwife early this year in view to my failings of my misuse of management privileges, this in turn effected my income, although I accepted and do completely understand the consequences were much deserved.

[PRIVATE]

[PRIVATE]

[PRIVATE]

[PRIVATE]. On the shift in question nothing was premeditated, I did not attend my shift thinking that I was going to commit the offence, when I saw the bags unattended my mind became obscured with my personal need and I took the bank cards from a patient's belongings that was in theatre at the time.

[PRIVATE]. I did not think of repercussions in the future at the time of committing

the offence. I felt guilty and embarrassed at how my actions hit an ultimate all-time low and I admit that I found it difficult to admit to after committing the offense. I did not own up to my mistake on my own accord, nor did I report to the trust or the NMC. I know that as an honest individual to uphold my integrity it is something I should have done; I admit I lacked courage where it was needed the most.

...

I have since reflected deeply on my actions and thought about my weaknesses. I have worked so hard to get to where I am today, studying and working with three young children was not easy however I did it because I have the love for this job and I did that with much determination. I recognise that the impact of my actions has affected the patients trust in the profession for the future, I have embarrassed the profession profoundly, this has likely impacted on the public confidence and I have affected the workforce and trust by being suspended, this has had a financial impact which is unrepairable.

...I understand that I have abused my privileged position for my own means.

My actions may be difficult to remedy since my action led to cause emotional harm to a patient. [PRIVATE].

...

I have not denied any of the allegations and have co-operated with the police and my Trust every stage so far, I am aware that this action will change my future practice and will stain my otherwise unblemished report. I accept the councils concerns in regards to my actions and inappropriate conduct and if it is at all possible will undertake any actions to remedy this occurrence.'

The panel considered that this statement showed a significant level of insight and remorse into the behaviour which led to her convictions. It was also supported by a reference from The Beth Centre, a charity providing holistic support to women who have had contact with the criminal justice system. This reference, dated 19 April 2021, described Miss Puertas as being remorseful for, and distressed by, her actions and committed to midwifery.

In relation to her misconduct, Miss Puertas' accepted that her advert could have been misleading. However the panel lacked evidence of any further insight into this issue.

The panel bore in mind that concerns regarding a nurse or midwife's attitude, integrity or trustworthiness can be more difficult to remediate than, for example, clinical issues with their practice. The panel considered that Miss Puertas has shown a significant level of insight and remorse into her behaviour which led to her convictions. However, her insight into her misconduct is less developed.

The panel also had to weigh Miss Puertas' insight and remorse against the pattern of her behaviour. Miss Puertas was found to have authorised false timesheets for herself. She was disciplined by the Trust and referred to the NMC. Despite this, she then went on to steal bank cards from the belongings of a patient in theatre and use them for her own personal gain. She was referred to the police, and to the NMC for a second time, and was made the subject of an interim suspension order. Despite this she then went on to commit a further act of dishonesty by advertising midwifery services in breach of her interim order.

The panel noted that, at the time of her offending behaviour, Miss Puertas was experiencing very difficult and challenging personal circumstances. Nonetheless, the panel considered that Miss Puertas' pattern of behaviour raised serious concerns about her integrity and trustworthiness. It considered that, notwithstanding her insight and remorse, there remained a risk of repetition. The panel therefore determined that a finding of current impairment on public protection grounds was required.

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 and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

Registered nurses and midwives are expected to cooperate with their regulator at all times. This includes abiding by any restrictions imposed on their practice. The panel considered that professional standards and public confidence would be seriously undermined if the panel did not make a finding of current impairment in a case where a midwife has acted in breach of an interim suspension order. Similarly, the panel considered that Miss Puertas' criminal convictions represented an abuse of her position and a serious breach of professional standards, and determined that a finding of current impairment was also required on public interest grounds to maintain public confidence and proper professional standards in this regard as well.

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

Determination on sanction

The panel considered this case and decided to make a striking-off order.

In reaching this decision, the panel had regard to all the evidence that it had read in this case, as well as the Sanctions Guidance published by the NMC. The panel bore 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 noted that the NMC had proposed that a striking-off order would be the appropriate and proportionate sanction in respect of both Miss Puertas' misconduct and

her convictions. However, it reminded itself that the decision on sanction was a matter for the panel, exercising its own independent judgement.

The panel considered that the aggravating factors in this case were:

- Miss Puertas has committed three distinct acts of dishonest behaviour over a period of some months; the second and third instances of which took place despite local and regulatory action being taken in respect of the first occurrence;
- Miss Puertas exploited a patient who was in a vulnerable position at the time for her own personal financial gain; this represented a breach of trust.

The panel considered that the mitigating factors in this case were:

- Miss Puertas has demonstrated remorse and insight, particularly in relation to her convictions and the underlying offending behaviour;
- She was experiencing very difficult and challenging personal circumstances at the time.

The panel first considered whether to take no action or refer the case to mediation but concluded that neither would be appropriate in view of the seriousness of the case. Taking no further action would not protect the public and would be insufficient to maintain proper professional standards and public confidence.

Next, in considering whether a caution order would be appropriate in the circumstances, the panel took into account the Sanctions Guidance, 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 considered that Miss Puertas' misconduct and convictions were far from 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 a conditions of practice order. It was mindful that any conditions imposed must be proportionate, measurable and workable. The panel decided that it would not be possible to formulate workable conditions in this case given that the concerns relate to Miss Puertas' attitude and integrity.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The Sanctions Guidance indicates that a suspension order may be appropriate in the following circumstances:

- *'a single instance of misconduct but where a lesser sanction is not sufficient*
- *no evidence of harmful deep-seated personality or attitudinal problems*
- *no evidence of repetition of behaviour since the incident*
- *the Committee is satisfied that the nurse, midwife or nursing associate has insight and does not pose a significant risk of repeating behaviour*
- ...
- ...

When considering seriousness, the Fitness to Practise Committee will look at how far the nurse, midwife or nursing associate fell short of the standards expected of them. It will consider the risks to patients and to the other factors above, and any other particular factors it considers relevant on each case.'

The panel noted that Miss Puertas' behaviour was not a single instance of misconduct. There are three separate concerns before this panel: falsification of timesheets in November/December 2018, theft and use of Patient A's bank cards in May 2019 and the breach of her interim order in July 2019. On each occasion, action was taken by the Trust and/or the NMC. Despite this, on each occasion, Miss Puertas went on to repeat further similar behaviour which called into question her integrity and trustworthiness.

The panel acknowledged that, at the time of the offending behaviour which led to Miss Puertas' criminal convictions, she was experiencing very difficult and challenging

personal circumstances, However, the panel considered that her response to these challenges pointed to an attitudinal concern. The panel had found that Miss Puertas had shown insight and remorse into her criminal behaviour, but had not been satisfied that there was no risk of repetition.

The panel considered that Miss Puertas' actions were a serious departure from the standards expected of a registered midwife. She had acted in defiance of restrictions imposed by her regulator for the protection of the public, and had abused her position of trust to steal from a vulnerable patient undergoing emergency surgery, for her own personal financial gain. The panel considered that a suspension order would not be sufficient to mark the seriousness of this case, maintain proper professional standards, or maintain public confidence.

The panel therefore moved on to consider a striking-off order. The Sanctions Guidance indicates that this sanction is likely to be appropriate in cases where:

'... what the nurse, midwife or nursing associate has done is fundamentally incompatible with being a registered professional. Before imposing this sanction, key considerations the panel will take into account include:

- Do the regulatory concerns about the nurse, midwife or nursing associate raise fundamental questions about their professionalism?*
- Can public confidence in nurses, midwives and nursing associates be maintained if the nurse, midwife or nursing associate 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 NMC's guidance on 'Considering sanctions for serious cases' also states that the more serious cases of dishonesty will involve, amongst other things:

- ...*
- misuse of power*

- *vulnerable victims*
- *personal financial gain from a breach of trust*
- ...
- ...'

That same guidance also states that when deciding on a sanction in a case about criminal offences a Fitness to Practise Committee panel:

'...will think about promoting and maintaining the health, safety and wellbeing of the public, public confidence in nurses, midwives and nursing associates, and professional standards.

It's clear that the Committee's purpose isn't to punish the nurse, midwife or nursing associate for a second time. Because of this, the sentence passed by the criminal court isn't necessarily a reliable guide to how seriously the conviction affects the nurse, midwife or nursing associate's fitness to practise. So, the personal circumstances or mitigation of the nurse, midwife or nursing associate is also less likely to be useful or helpful to the Fitness to Practise Committee when making a sanction decision than it would have been to the criminal court.

Cases about criminal offending by nurses, midwives or nursing associates illustrate the principle that the reputation of the professions is more important than the fortunes of any individual member of those professions. Being a registered professional brings many benefits, but this principle is part of the 'price'.

The panel considered that Miss Puertas' behaviour raised fundamental questions about her integrity, trustworthiness and professionalism and was a significant departure from the standards expected of a registered midwife. The panel decided that allowing Miss Puertas to remain on the NMC register would undermine proper professional standards and public confidence in the midwifery profession and the NMC. It therefore determined

that the only appropriate and proportionate sanction which would protect the public and satisfy the public interest was a striking-off order.

Determination on interim order

Having determined that a striking-off order was the appropriate and proportionate sanction, the panel considered whether to impose an interim order to cover the appeal period.

The panel was satisfied that an interim suspension order was necessary for the protection of the public and was 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. To do otherwise would be incompatible with its earlier findings.

The period of this order is for 18 months to allow for the possibility of an appeal to be made and determined.

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

That concludes this determination.