Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Tuesday 25 October 2022

Virtual Hearing

Name of registrant:	**Denesh Chooramun**
NMC PIN:	11K0132E
Part(s) of the register:	Nursing – Sub Part 1 Mental Health Nursing -March 2012
Relevant Location:	Birmingham
Type of case:	Misconduct
Panel members:	Susan Ball (Chair, Registrant member) Christine Callender (Registrant member) Mark Gower (Lay member)
Legal Assessor:	Robin Ince
Hearings Coordinator:	Megan Winter
Nursing and Midwifery Council:	Represented by Debbie Churaman, Case Presenter
Mr Chooramun:	Not present and unrepresented
Consensual Panel Determination:	Accepted
Facts proved by admission:	All
Facts not proved:	None
Fitness to practise:	Impaired
Sanction:	**Striking-off order**
Interim order:	**Interim suspension order (18 months)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mr Chooramun was not in attendance and that the Notice of Hearing letter had been sent to Mr Chooramun's registered email address on 21 September 2022.

Ms Churaman, on behalf of the Nursing and Midwifery Council (NMC), referred the panel to an email dated 17 October 2022 from Mr Chooramun's representative at the RCN to the NMC, it stated:

> *'The registrant has confirmed that he is content for the matter to proceed in his absence, and the absence of representation.'*

Ms Churaman submitted that Mr Chooramun had indicated in the Consensual Panel Determination (CPD) that he is aware the hearing is taking place today. The CPD was signed by Mr Chooramun on 11 October 2022.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, date and venue of the hearing and, amongst other things, information about Mr Chooramun's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence. The panel noted that Mr Chooramun, who had already been in contact with the NMC concerning this process, had agreed to waive his right to the required 28-day notice period.

In the light of all of the information available, the panel was satisfied that Mr Chooramun has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mr Chooramun

The panel next considered whether it should proceed in the absence of Mr Chooramun. It had regard to Rule 21 and heard the submissions of Ms Churaman, who invited the

panel to continue in the absence of Mr Chooramun. She submitted that Mr Chooramun had voluntarily absented himself.

Ms Churaman informed the panel that a provisional Consensual Panel Determination (CPD) agreement had been reached and signed by Mr Chooramun on 11 October 2022.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised with the utmost care and caution.

The panel has decided to proceed in the absence of Mr Chooramun. In reaching this decision, the panel has considered the submissions of Ms Churaman, the communications from Mr Chooramun, and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones* [2002] UKHL 5 and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. The panel noted that:

- Mr Chooramun has engaged with the NMC and has signed a provisional CPD agreement, which is before the panel today;
- Mr Chooramun's representative has indicated on his behalf that he would not be attending the scheduled hearing in their email dated 17 October 2022, and that he is content for the panel to proceed in his absence;
- There is no reason to suppose that adjourning would secure Mr Chooramun's attendance at some future date; and
- There is a strong public interest in the expeditious disposal of the case.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mr Chooramun.

Consensual Panel Determination

At the outset of this hearing, Ms Churaman informed the panel that a provisional agreement of a CPD had been reached with regard to this case between the NMC and Mr Chooramun.

The agreement, which was put before the panel, sets out Mr Chooramun's full admissions to the facts alleged in the charges, that his actions amounted to misconduct, and that his fitness to practise is currently impaired by reason of that misconduct. It is further stated in the agreement that the appropriate sanction in this case would be a striking-off order.

The panel has considered the provisional CPD agreement reached by the parties.

That provisional CPD agreement reads as follows:

"The Nursing & Midwifery Council ("the NMC") and Mr Denesh Chooramun ("Mr Chooramun"), PIN 11K0132E ("the Parties") agree as follows:

1. Mr Chooramun is aware of the CPD hearing. Mr Chooramun does not intend on attending the hearing and is content for it to proceed in his and his representative's absence.

The charge

2. Mr Chooramun admits the following charges:

That you, a registered nurse:

1. On 31 December 2019, when Patient A left the ward:
a. failed to complete a risk assessment;
b. failed to establish the reason for the patient's leave and/or destination and/or expected return time;
c. failed to record the correct time the patient left the ward;

2. On 31 December 2019, when Patient A did not return to the ward by 16:30:
a. did not record the time you first became aware that Patient A was missing;
b. informed the Ward Manager that you had called the Police when this was incorrect;
c. documented that you reported Patient A missing to the police at 16:30 when this was not correct;
d. Failed to contact the police promptly;

3. Your actions in charge 2(b) were dishonest, in that you knew you had not informed the police and intended to cover up your failure;

4. Your actions in charge 2(c) were dishonest, in that you intended to mislead any future reader of the records;

5. Prepared a draft statement to the Coroner within which you documented that you contacted the police at 16:00 on 31 December 2019 when this was not correct;

6. You actions in charge 5 were dishonest, in that you intended to cover up your failure to contact the police promptly;

7. Your actions in charge 2 (b), 2(c) and 5 were a breach of the duty of candour, in that you were not open and honest in relation to what happened on this date.

AND in light of the above, your fitness to practise is impaired by reason of your misconduct. Background
3.

Mr Chooramun appears on the register of nurses, midwives and nursing associates maintained by the NMC as a Registered Nurse, specialising in mental health. Mr

Chooramun has been on the register since March 2012. This case represents the first time Mr Chooramun's fitness to practise has been referred to the NMC.

4. On 3 September 2020, the NMC received a referral from Woodbourne Priory Hospital ("the Hospital"). Mr Chooramun was employed at the Hospital from 7 April 2017 and at the time of the concerns raised was working as a Senior Staff Nurse on Beech Ward ("the Ward").

5. The Ward is a 12 bed acute ward separated into two sides, one for female patients and one for male patients. The Ward occupies vulnerable patients aged 18 to 25 years old. Staff work on a ladder routine meaning that there are normally four members of staff to 12 patients, two of which are qualified nurses.

6. As part of the NMC's investigation into Mr Chooramun's fitness to practise, witness statements have been obtained from:

6.1 Mr 1, Specialist Director at Priory Group;

6.2 Ms 1, Ward Manager and On-Call Manager, at the Hospital;

and

6.3 Ms 2, who was, at the material time, Senior Staff Nurse on the Ward.

7. On 5 April 2022, Mr Chooramun submitted a Case Management Form confirming that he admits all of the charges and his fitness to practise is impaired.

The facts relating to Charge 1

8. On 13 December 2019, Patient A was admitted to the Ward following an overdose of heroin a day earlier.

9. Patient A had a diagnosis of drug induced psychosis, depression and schizophrenia. They were an informal patient, meaning that they were not detained under the Mental Health Act and they could request to leave at any time. However, the patient should be assessed as to what the current risks are prior to leaving the Ward and an

Informal Leave Risk Assessments must be filled in.

10. Informal Leave Risk Assessments consider a patients current risk such as whether they have mentioned to anyone if they cannot keep themselves safe and why. If the risk is too high, then the patient should be assessed and if necessary detained under the Mental Health Act. The risk assessment also takes into account where the patient is going, when they are likely to return to the Ward and who they are going with. This should be completed prior to a patient leaving the Ward.

11. The Clinical Risk Assessment and Management Policy Section 12.8 states '… all staff are aware of the risk level within the clinical environment and the associated risk factors'. Furthermore, Section 12.9 states 'Record keeping is a key component of risk assessment and risk management. All information relating to risk issues should be clearly and accurately recorded on the service user's health record'.

12. Patient A's suicide risk and risk of drug use or supply was regularly assessed throughout their time on the Ward. On admission, Patient A was rated as 'high' for suicide risk. Patient A was rated as 'low' at the next three reviews and 'medium' on 31 December 2019.

13. Since Patient A's admission, they were known to leave the Ward for short periods to have a cigarette. This occurred several times throughout each day and was documented in the Informal Leave Risk Assessments for Patient A.

14. On 31 December 2019, Patient A left the Ward at 11:42 and then returned 10 or 15 minutes later. Patient A then left the Ward again at 12:58, leaving the Hospital grounds at 13:39. He was declared missing at 17:10 and was subsequently found hours later to have taken an overdose in the city centre.

15. Mr Chooramun failed to follow the correct process when Patient A left the Ward at 11:42 and 12:58 as he didn't establish the reason for Patient A's leave, their destination or expected return time. Furthermore, he made not record of the time Patient A left the Ward.

16. Mr Chooramun would have been aware of the need to complete a Informal Leave Risk Assessments prior to allowing the patient to leave the Ward from in-house training called Foundations for Growth which all staff received.

The facts relating to Charges 2 – 7

17. It was not until 16:30 that Mr Chooramun realised that Patient A had not yet returned to the Ward, having left at 12:58. This was unusual as usually Patient A would only leave for short periods of time.

18. If an informal patient does not return at the agreed return time or doesn't come back to the Ward, as in Patient A's case, staff are required to start the process of treating the patient as absent without leave (AWOL). In this process, both the Hospital management and the police should be informed in a timely manner, as per Section 2.2 of the Missing Informal Patients October policy, which states 'If it is felt that the patient is at immediate risk of harm to themselves or others the Police must be informed without delay'.

19. When Mr Chooramun first realised Patient A had been away from the Ward from a long period of time, the above process should have been started.

20. On 31 December 2019, Ms 1 was the Ward Manager for Oak Ward and On-Call Manager for the Hospital and Mr Chooramun was the Nurse in Charge.

21. At approximately 17:00, Ms 1 overhead Mt Chooramun discussing Patient A's whereabouts with Ms 2 and asked Mr Chooramun to call the police, to which Mr Chooramun confirmed he had. When Ms 1 returned to the Ward, at approximately 19:00, she asked Mr Chooramun to ring the police again and update them with the new information about Patient A going to buy illicit substances. At this point, Ms 1 heard Mr Chooramun make the call.

22. It was later discovered during Mr 1's investigation into the incident, that when

Patient A was discovered to be absent, the correct process was not followed by Mr Chooramun and the police were not informed in a timely fashion.

23. As part of Mr 1's investigation, he conducted an interview with Mr Chooramun. Mr Chooramun stated during his interview, and also documented in the Missing Patient Action Checklist, that he called the police at 16:30 and again at 19:30. However, based on the Hospital's phone records, Mr Chooramun did not in fact call the Police until 19:18, despite being instructed Ms 1 to call the police at 17:00.

24. Furthermore, Mr Chooramun wrote in his statement to the Coroner that he called the police at 16:00, which was not an accurate reflection of what happened.

25. If the police had been notified earlier they would have had more time to locate Patient A. It was Mr Chooramun's responsibility as the Nurse in Charge to call the police. Mr Chooramun could have chosen to delegate this responsibility to another nurse, but chose not to.

26. Patient A's body was later found by the police. A post-mortem revealed that he had taken an overdose. The inquest into his death concluded that his intentions in taking heroin were unclear.

Misconduct

27. The Parties agree that Mr Chooramun's actions, as outlined in the charges above, amounts to misconduct and that his actions and/or omissions fell significantly short of the standards expected of a registered nurse.

28. The comments of ***Lord Clyde in Roylance v General Medical Council [1999] UKPC 16*** *may provide some assistance when seeking to define misconduct:*

> *'[331B-E] Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily*

required to be followed by a [nurse] practitioner in the particular circumstances'.

29. As may the comments of Jackson J in Calheam v GMC [2007] EWHC 2606 (Admin) and Collins J in Nandi v General Medical Council [2004] EWHC 2317(Admin):

'[Misconduct] connotes a serious breach which indicates that the doctor's (nurse's) fitness to practise is impaired'

And

'The adjective "serious" must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioner'.

30. Mr Chooramun's actions and/or omission as reflected in the admitted charges are serious and fall short of what is expected of a registered nurse. The misconduct is a serious departure from expected standards, and constitutes a risk to patients and a risk to the reputation of the profession.

31. At the relevant time, Mr Chooramun was subject to the provision of ***The Code: Professional standards of practice and behaviour for nurses and midwives (2015)*** *("the Code"). The Parties agree that the following provisions of the Code were engaged, and breached, in this case;*

> ***3 Make sure that people's physical, social and psychological needs are assessed and responded to***
> *To achieve this, you must:*
> *3.1 pay special attention to promoting wellbeing, preventing ill health and meeting*
> *the changing health and care needs of people during all life stages*
>
> ***10 Keep clear and accurate records relevant to your practice***

This applies to the records that are relevant to your scope of practice. It includes but is not limited to patient records.

To achieve this, you must:

10.1 complete records at the time or as soon as possible after an event, recording if the notes are written some time after the event

10.2 identify any risks or problems that have arisen and the steps taken to deal with them, so that colleagues who use the records have all the information they need

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

13 Recognise and work within the limits of your competence

To achieve this, you must, as appropriate:

13.1 accurately identify, observe and assess signs of normal or worsening physical and mental health in the person receiving care

16 Act without delay if you believe that there is a risk to patient safety or public protection

To achieve this, you must:

16.1 raise and, if necessary, escalate any concerns you may have about patient or public safety, or the level of care people are receiving in your workplace or any other health and care setting and use the channels available to you in line with our guidance and your local working practices

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 and without discrimination, bullying or harassment~~

32. It is acknowledged that not every breach of the Code will result in a finding of misconduct. However, Mr Chooramun accepts that the failings set out above are a

serious departure from the professional standards and behaviour expected of a registered nurse. Mr Chooramun acknowledges that his conduct presented a risk of harm to Patient A whom he was tasked with caring for.

33. The conduct was serious in that in that it relates failures in respect of basic, but important, aspects of nursing which should have at all times been undertaken effectively and appropriately. The failure to undertake such tasks appropriately have the potential for serious, unwarranted, patient harm.

34. Failure to conduct an Informal Leave Risk Assessment and inform the police is manifestly serious. The seriousness of the concerns are reflected by the fact that Patient A was later found by the police dead. If Mr Chooramun had come to an agreement with Patient A as to his expected return time and this had been documented, then the missing patient process would have been commenced much earlier. If the police had been notified earlier they would have had more time to locate Patient A.

35. The record keeping concerns are also serious. Record keeping is an important aspect of nursing which must be undertaken appropriately at all times. Poor and inaccurate record keeping undermines patient safety and confidence in the profession. It has the potential to impact upon effective patient care and accountability.

36. The dishonesty and breach of professional duty of candour associated with the misconduct referred to in charges 2, 5 and 6 are extremely serious. Dishonesty, however it manifests, is always treated seriously by the profession. Honesty and integrity are fundamental tenets of the nursing profession. The fact that the dishonesty is directly linked to nursing care and sought to conceal inadequacies in care provided to residents, together with the fact that the dishonesty was wide spread and not isolated, adds to the seriousness.

37. Individually, and collectively, the conduct referred to in the charges are sufficiently serious so as to amount to misconduct.

Impairment

38. The Parties agree that Mr Chooramun's fitness to practise is currently impaired by reason of his misconduct.

39. Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones and therefore it is imperative that nurses make sure that their conduct at all times justifies both their patients' and the public's trust in them and in their profession.

40. A general approach to what might lead to a finding of impairment was provided by Dame Janet Smith in her Fifth Shipman Report. A summary is set out in the case of ***CHRE v Nursing and Midwifery Council & Grant [2011] EWHC 927*** *at paragraph 76 in the following terms:*

"Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her fitness to practise is impaired in the sense that s/he:

> *a. has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
> *b. has in the past brought and/or is liable in the future to bring the medical rice*
> *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."*

41. The Parties agree that all four limbs above can be answered in the affirmative in this case. Dealing with each one in turn:

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

42. The concerns raised are extremely serious and relate to Mr Chooramun's care of a very vulnerable patient. Although it is not alleged that there is a causative link between Mr Chooramun's conduct and Patient A's subsequent death, the Parties agree that patients are at risk of being put at unwarranted harm in the future. Failing to conduct a risk assessment, means that patients are not being properly assessed as to whether they should be allowed out of the Ward. This means that if a patient is high risk and not assessed and leaves the Ward, then they could be placed at significant harm to themselves and the public.

Has in the past brought and/or is liable in the future to bring the medical profession into disrepute

43. Registered professionals occupy a position of trust in society. The public, quite rightly, expects nurses to provide safe and effective care, and conduct themselves in ways that promotes trust and confidence. Mr Chooramun's actions and omissions had the potential to cause patients and members of the public to be concerned about their safety and feel unnecessarily anxious about their healthcare treatment. This, the Parties agree, could result in patients, and members of the public, being deterred from seeking medical assistance when they should. Therefore, it is agreed that Mr Chooramun's conduct has brought the profession into disrepute and that he has breached the trust placed in him.

Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession

44. Providing a high standard of care is also a fundamental tenet of the nursing profession. Further the provisions of the Code, as referred to above, constitute tenets of the nursing profession. By failing to provide a high standard of care at all times and comply with the core principles and specific paragraphs of the Code as set out above, Mr Chooramun breached fundamental tenets of the profession.

Has in the past acted dishonestly and/or is liable to act dishonestly in the future

45. Mr Chooramun acted dishonestly by recording and communicating to others that he had called the police when he knew that he had not and intentionally sought to cover up his failure.

46. The panel may also find it useful to consider the comments of ***Cox J in Grant at paragraph 101****:*

> *"The Committee should therefore have asked themselves not only whether the Registrant continued to present a risk to members of the public, but whether the need to uphold proper professional standards and public confidence in the Registrant and in the profession would be undermined if a finding of impairment of fitness to practise were not made in the circumstances of this case".*

Remediation, reflection, training, insight, remorse

47. In considering the question of whether Mr Chooramun's fitness to practise is currently impaired, the Parties have considered the guidance in the case of ***Cohen v GMC [2007] EWHC 581 (Admin),*** *in which the court set out three matters which it described as being 'highly relevant' to the determination of the question of current impairment:*

> *a. Whether the conduct that led to the charge(s) is easily remediable;*
> *b. Whether it has been remedied;*
> *c. Whether it is highly unlikely to be repeated.*

48. NMC guidance entitled ***'Insight and strengthened practice' (FTP-13****) states, "Evidence of the nurse, midwife or nursing associate's insight and any steps they have taken to strengthen their practice will usually be central to deciding whether their fitness to practise is currently impaired".*

49. In Mr Chooramun's reflective account of September 2020, he say, "I am ashamed to admit that I have made a series of errors which is not becoming of the nurse that I

am and have trained to be, or my profession. It is not how I would normally carry out my duties and for this I am extremely remorseful. Something in my practice went wrong that day. I am starting a journey of reflection to realise the seriousness and gravity of my mistakes and where this has led.

I feel that I have let a lot of people down including my colleagues and, more importantly, the patients that I care for and Patient A. I have not carried out my duties to the extent that I know that I am capable of doing".

50. Mr Chooramun has also indicated that he is committed to reflection and remediation. He states, "I acknowledge that I need a reflection period where I can reflect on what went wrong, and how I can improve on what went wrong to make sure that my practice is always of the highest standard. On this particular occasion, it was far below the standard that I expect of myself and what the code would expect of me.

As part of my reflection, I am in the process of preparing a personal development plan covering areas including accurate documentation, clinical supervision in relation to record keeping, clear communication within a nursing team, working in a safe and therapeutic environment, ensuring that policies and procedures are adhered to. I will also want to work on client care and empathy, professional conduct and obligations and the duty of candour.

This will enable me to focus on weak areas that I need to develop and areas of learning".

51. A copy of Mr Chooramun's reflective account is produced as ***Appendix 1****.*

52. Mr Chooramun has also undertaken training in relation to Duty of Candour, Care Planning, Duty of Awareness, and Equality and Diversity.

53. Evidence of Mr Chooramun's training is produced as ***Appendix 2****.*

54. Whilst there is evidence of insight from Mr Chooramun, the Parties agree that the nature and extent of the concerns are indicative of an underlying attitudinal concern which is difficult to remediate. It is also agreed that dishonesty is often said to be attitudinal in nature and difficult to remediate. The allegations relating to the falsification of records and of statements provided for the investigations into Patient A's death are especially concerning.

55. NMC guidance gives examples of conduct which it may not be possible to address, and where steps such as training courses or supervision at work are unlikely to address the concerns. These include dishonesty, particularly if it was serious and sustained over a period of time, or directly linked to the nurse, midwife or nursing associate's practice. Mr Chooramun's dishonesty is directly linked to his nursing practice and is serious.

56. In relation to whether the conduct is likely to be repeated, it is relevant concerns of this nature are suggestive of deep-seated attitudinal issues and that, whilst Mr Chooramum has sought to reflect on the concerns, they cannot be said to be remediated. Therefore, it is agreed that there is a risk of repetition. Should such conduct/concerns be repeated, there is a risk of further serious, unwarranted, patient harm.

Public protection impairment

57. For the reasons referred to above, it is agreed that a finding of impairment on public protection grounds is necessary.

Public interest impairment

58. A finding of impairment is also necessary on public interest grounds.

59. In ***CHRE v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin****) Cox J commented as follows:*

"71. It is essential, when deciding whether fitness to practise is impaired, not to lose sight of the fundamental considerations… namely, the need to protect the public and the need to declare and uphold proper standards of conduct and behaviour so as to maintain public confidence in the profession .."

74. 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."

75. I regard that as an important consideration in cases involving fitness to practise proceedings before the NMC where, unlike such proceedings before the General Medical Council, there is no power under the rules to issue a warning, if the committee finds that fitness to practise is not impaired. As Ms McDonald observes, such a finding amounts to a complete acquittal, because there is no mechanism to mark cases where findings of misconduct have been made, even where that misconduct is serious and has persisted over a substantial period of time. In such circumstances the relevant panel should scrutinise the case with particular care before determining the issue of impairment."

60. Having regard to the serious nature of the misconduct, and the principles referred to above, a finding of impairment is necessary on public interest grounds. As recognised above, an important consideration is that a finding of no impairment would lead to no record of these regulatory charges and the conduct being marked, which would be contrary to the public interest.

61. The public would be concerned about the serious failings in this case. The concerns are of such a serious nature the need to protect the wider public interest calls for a finding of impairment to uphold the standards of the profession, maintain confidence in the profession and the NMC as its regulator. Without a finding of impairment, public confidence in the profession and the NMC would be undermined.

62. The Parties agree that Mr Chooramun's fitness to practice is impaired on public protection and public interest grounds.

Sanction

63. ***In accordance with Article 3(4) of the Nursing and Midwifery Order 2001*** *("the Order") the overarching objective of the NMC is the protection of the public.*

64. The Order states:-

The pursuit by the Council of its over-arching objective involves the pursuit of the following objectives-

(a) to protect, promote and maintain the health, safety and well-being of the public;
(b) to promote and maintain public confidence in the professions regulated under this Order; and
(c) to promote and maintain proper professional standards and conduct for members of those professions.

65. Whilst sanction is a matter for the panel's independent professional judgement, the Parties agree that the appropriate sanction in this case is a striking-off order. A striking-off order is the most appropriate and proportionate sanction which properly reflects the seriousness of the misconduct.

66. In reaching this agreement, the Parties considered the ***NMC's Sanctions Guidance*** *("the Guidance"), bearing in mind that it provides guidance and not firm rules. The panel will be aware that the purpose of sanctions is not to be punitive but to protect the public and public interest. The panel should take into account the principle of proportionality and it is submitted that the proposed sanction is a proportionate one that balances the risk to the public and the public interest with Mr Chooramun's interests.*

67. The aggravating features in this case have been identified as follows:

- *Risk of serious harm to patient*
- *Repeated dishonest behaviour, in relation to record keeping and then to the Coroner*
- *Calculated behaviour – intention to cover up what happened when providing a local statement and a statement to the Coroner*

68. The mitigating features of this case have been identified as follows:

- *Insight, remorse and reflection shown*
- *Acceptance of dishonesty and breach of duty of candour*

69. With regards to the Guidance, the following aspects have led the Parties to conclude that a striking-off order is appropriate and proportionate. Taking the available sanctions in ascending order starting with the least restrictive:

*a) **Taking no action or a caution order** - The NMC's guidance (SAN-3a and SAN-2b) states that it will be rare to take no action where there is a finding of current impairment and this is not one of those rare cases. The seriousness of the misconduct means that taking no action would not be appropriate. A caution order would also not be in the public interest nor mark the seriousness and would be insufficient to maintain high standards within the profession or the trust the public place in the profession.*

*b) **Conditions of Practice Order** - The NMC's guidance (SAN-3c) states that a conditions of practice order may be appropriate when some or all of the following factors are apparent (this list is not exhaustive):*

- *no evidence of harmful deep-seated personality or attitudinal problems*
- *identifiable areas of the nurse, midwife or nursing associate's practice in need of assessment and/or retraining*
- *no evidence of general incompetence*
- *potential and willingness to respond positively to retraining*
- *the nurse, midwife or nursing associate has insight into any health*

problems and is prepared to agree to abide by conditions on medical condition, treatment and supervision

• patients will not be put in danger either directly or indirectly as a result of the conditions

• the conditions will protect patients during the period they are in force

• conditions can be created that can be monitored and assessed.

The misconduct and the concerns behind the misconduct, indicate harmful deep-seated personality or attitudinal problems. The fact that some were associated dishonesty, seriously aggravates the situation. Furthermore, it would not be possible to formulate workable conditions to meet the risks in this case. Conditions are particularly difficult to formulate in cases which involve dishonesty. A conditions of practice order would not reflect the seriousness of the concerns raised or maintain public confidence.

c) ***Suspension Order*** *- Imposing a suspension order would only temporarily protect the public. It cannot be said that this was a single instance as the dishonesty elements continued during the local investigation and then to the Coroner, There is also evidence of harmful deep-seated personality or attitudinal problems. This sanction would not reflect the seriousness of the conduct and therefore public confidence in the profession would not be maintained. According to the NMC guidance (SAN-d), a suspension order would not be appropriate in this case as the misconduct is fundamentally incompatible with Mr Chooramun continuing to be a registered professional. The overarching objective of public protection would not be satisfied by a suspension order and it would not be in the public interest to impose a suspension order in this case. The confidence in the NMC as a regulator would be undermined if Mr Chooramun was allowed to practice once the suspension order comes to an end.*

d) ***Striking-off Order –*** *Patient A was a particularly vulnerable patient. Mr Chooramun's behaviour has raised fundamental questions about his professionalism and public confidence can only be maintained if he is removed from the register. Taking into account all of the factors, the conduct is*

fundamentally incompatible with ongoing registration as a nurse. Only a striking-off order would be sufficient to protect the public and maintain public confidence in the profession.

Interim order

70. An interim order is required in this case. The interim order is necessary for the protection of the public and is otherwise in the public interest. The interim order should be for a period of 18 months in the event Mr Chooramun's sought to appeal against the panel's decision. The interim order should take the form of an interim suspension order.

The Parties understand that this provisional agreement cannot bind a panel, and that the final decision on findings impairment and sanction is a matter for the panel. The parties understand that, in the event that a panel does not agree with this provisional agreement, the admissions to the charges and the agreed statement of facts set out above, may be placed before a differently constituted panel that is determining the allegation, provided that it would be relevant and fair to do so".

Here ends the provisional CPD agreement between the NMC and Mr Chooramun. The provisional CPD agreement was signed by the NMC and by Mr Chooramun on 11 October 2022.

Decision and reasons on the CPD

The panel decided to accept the CPD.

The panel considered the submissions of Ms Churaman. It accepted the advice of the legal assessor, who reminded them that it could accept, amend or outright reject the provisional CPD agreement reached between the NMC and Mr Chooramun. Further, the panel should consider whether the provisional CPD agreement would be in the public interest. This means that the outcome must ensure an appropriate level of public protection, maintain public confidence in the professions and the regulatory body, and

declare and uphold proper standards of conduct and behaviour. The panel had regard to the NMC's published guidance on sanctions ('the SG') and the NMC's published guidance on Consensual Panel Determinations.

The panel noted that Mr Chooramun admitted the facts of charges 1-7 in their entirety. Accordingly, the panel was satisfied that charges 1-7 are found proved by way of Mr Chooramun's admissions under Rule 24 (5), as set out in the signed provisional CPD agreement.

The panel saw no indication that Mr Chooramun has not understood the effects of seeking a CPD, and that his responses in the case management form dated 5 April 2022 are consistent with the CPD dated 11 October 2022.

Decision and reasons on misconduct and impairment

The panel then went on to consider whether Mr Chooramun's fitness to practise is currently impaired. Whilst acknowledging the agreement between the NMC and Mr Chooramun, the panel has exercised its own independent judgement in reaching its decision on impairment.

In respect of misconduct, the panel determined that Mr Chooramun's actions, as outlined in the charges above, amount to misconduct and that his actions and/or omissions fell significantly short of the standards expected of a registered nurse.

In this respect, the panel endorsed the reasons outlined in paragraphs 27 to 37 of the provisional CPD agreement. The panel also endorsed paragraph 31 in respect of the breaches of the NMC Code as agreed by both parties. In particular, the Panel noted that Mr Chooramon had: failed to follow procedures designed to ensure the safety of vulnerable mental health patients; failed to record significant events into the patient's records; made false entries into those records; lied to his line manager; lied during the subsequent hospital investigation; and had lied in a written statement to the Coroner, all in an effort to cover up his original errors. The Panel had no hesitation in concluding that, individually and collectively, his actions and omissions constituted a serious falling

short of the standards of a registered nurse and would be regarded as deplorable by fellow professionals.

The panel then considered whether Mr Chooramun's fitness to practise is currently impaired by reason of misconduct. Whilst acknowledging the agreement between the NMC and Mr Chooramun, the panel has exercised its own independent judgement in reaching its decision on impairment.

The panel determined that Mr Chooramun's fitness to practise is currently impaired. In this respect the panel endorsed paragraphs 38 to 62 of the provisional CPD agreement. It considered the concerns to be indicative of an underlying attitudinal concern which is difficult to remediate. It was particularly concerned by the allegations relating to the falsification of records and of statements provided for the investigations into Patient A's death. The panel noted that, whilst Mr Chooramun has sought to reflect on the concerns, they had still not been remedied. In particular, the Panel noted that Mr Chooramun's reflections were dated from September 2020 and indicated then that, in the future, he intended to further address the concerns raised and to follow a PDP. However, there was no indication in the documents before the Panel of any further reflection or progress regarding his remediation. In addition, the Panel noted that, within the CPD Agreement (paragraph 54) whilst it was accepted that there was evidence of insight from Mr Chooramun, he had agreed that there remained underlying attitudinal concerns; and he also agreed that (paragraph 56) there remained a risk of repetition. Accordingly, the panel concluded that Mr Chooramun's insight was incomplete and there was a real risk of repetition, and determined that Mr Chooramun's fitness to practise is currently impaired on public protection grounds.

The panel also determined that Mr Chooramun's fitness to practise is currently impaired on public interest grounds. It considered that a fully informed member of the public would be concerned to learn that a nurse who had been lied to a number of parties in an effort to cover up his errors was able to practise without restriction.

Decision and reasons on sanction

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

The panel considered the following aggravating features, as proposed by the NMC in the provisional CPD:

- Risk of serious harm to Patient A
- Repeated dishonest behaviour, in relation to record keeping and then to the Coroner
- Calculated behaviour – intention to cover up what happened when providing a local statement and the draft statement to the Coroner

The panel also considered the following mitigating features, as proposed by the NMC in the provisional CPD:

- Insight, remorse and reflection shown
- Acceptance of dishonesty and breach of duty of candour

The panel first considered whether to take no action but concluded that this would be inappropriate in the light of the seriousness of the misconduct found proved. 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 misconduct, as well the panel's finding of current impairment on public protection grounds, an order that does not restrict Mr Chooramun's 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 found that Mr Chooramun's misconduct was not at the lower end of the spectrum, and determined that a caution order would be neither proportionate nor in the public interest.

The panel next considered whether placing conditions of practice on Mr Chooramun's 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 charges in this case. The misconduct identified in this case was not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Mr Chooramun's registration would not adequately address the seriousness of this case and would not protect the public.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:

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

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse and was not an isolated incident to the extent that, following the events on 31 December 2019, Mr Chooramun continued to lie about his actions. Further, the Panel noted that Mr Chooramun currently accepted that he continued to exhibit an attitudinal problem and that he had agreed that there was a risk of repetition. Finally, the panel noted that the serious breach of the fundamental tenets of the profession evidenced by Mr Chooramun's actions, in particular his

unremedied dishonesty, is fundamentally incompatible with Mr Chooramun remaining on the register.

In this particular case, the panel determined that 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?*

Mr Chooramun's actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with him remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Mr Chooramun's actions were particularly serious and to allow him to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel agreed with the CPD (and in particular with the reasons stated in paragraphs 65 to 69) that the appropriate and proportionate sanction is that of a striking-off order. The panel has concluded that nothing short of this would be sufficient in this case.

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

Decision and reasons on interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Mr Chooramun's own interest until the striking-off sanction takes effect. 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 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 agreed with the CPD 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 the appeal period.

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

This decision will be confirmed to Mr Chooramun in writing.

That concludes this determination.