

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

**Substantive Hearing
Thursday 13 October 2022**

Virtual Hearing

Name of registrant:	Elaine Frances Jefford
NMC PIN:	00I0487E
Part(s) of the register:	Registered Nurse – Sub Part 1 Adult Nursing (30 August 2003)
Relevant Location:	Devon
Type of case:	Misconduct
Panel members:	Louise Fox (Chair, lay member) Jodie Jones (Registrant member) Tanveer Rakhim (Lay member)
Legal Assessor:	Trevor Jones
Hearings Coordinator:	Jennifer Morrison
Nursing and Midwifery Council:	Represented by Shabana Fazal, Case Presenter
Mrs Jefford:	Not present and unrepresented
Consensual Panel Determination:	Accepted
Facts proved:	Charges 1, 2
Facts not proved:	Charges 3, 4
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 Mrs Jefford was not in attendance and that the Notice of Hearing letter had been sent to Mrs Jefford's registered email address on 4 October 2022.

Ms Fazal, on behalf of the Nursing and Midwifery Council (NMC), referred the panel to an email dated 30 September 2022 from Mrs Jefford to the NMC, in which Mrs Jefford waived the 28-day notice requirement as specified in Rule 11 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004, as amended ('the Rules'). Ms Fazal submitted that Mrs Jefford was clearly aware of the hearing, as she responded to the Notice of Hearing on 10 October 2022. She further submitted that the NMC had complied with the requirements of Rule 34.

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 Mrs Jefford's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence. The panel noted that Mrs Jefford, who had already been in contact with the NMC concerning this process, had agreed to waive her right to the required 28-day notice period.

In the light of all of the information available, the panel was satisfied that Mrs Jefford 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 Mrs Jefford

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

continue in the absence of Mrs Jefford. She submitted that Mrs Jefford had voluntarily absented herself.

Ms Fazal informed the panel that a provisional Consensual Panel Determination (CPD) agreement had been reached and signed by Mrs Jefford on 20 September 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 Mrs Jefford. In reaching this decision, the panel has considered the submissions of Ms Fazal, the communications from Mrs Jefford, 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. It noted that:

- Mrs Jefford has engaged with the NMC and has signed a provisional CPD agreement, which is before the panel today;
- Mrs Jefford indicated on the returned Case Management Form (CMF) dated 4 April 2022 that she would not attend a hearing of this case. She confirmed again that she would not be attending the scheduled hearing in her email of 30 September 2022, and was happy for the panel to proceed in her absence;
- There is no reason to suppose that adjourning would secure Mrs Jefford'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 Mrs Jefford.

Details of charge

That you, a registered nurse, on 24 August 2020,

1. Took a bank card belonging to Colleague A and purchased goods for your own use.
2. Your actions as set out in charge 1 above were dishonest in that you knew you did not have permission to take and use Colleague A's card.
3. Took £200 cash belonging to Colleague B.
4. Your actions as set out in charge 3 above were dishonest in that you knew you did not have permission to take £200 cash belonging to Colleague B.

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

Consensual Panel Determination

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

The agreement, which was put before the panel, sets out Mrs Jefford's full admissions to the facts alleged in the charges, that her actions amounted to misconduct, and that her 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 and Elaine Frances Jefford ("Mrs Jefford"), PIN 0010487E ("the Parties") agree as follows:

- 1. Mrs Jefford is content for her case to be dealt with by way of a CPD meeting. Mrs Jefford understands that if the panel disagree with the proposed sanction being imposed, the panel will adjourn the matter for this provisional agreement to be considered at a CPD hearing.*

PRELIMINARY ISSUES

Application to Offer No Evidence – Charges 3 and 4

- 2. The parties agree that the following charges as stated in the notice of hearing should not be pursued and the NMC therefore apply to the Panel to offer no evidence in respect of these.*
- 3. Took £200 cash belonging to colleague B.*
- 4. Your actions as set out in charge 3 above were dishonest in that you knew you did not have permission to take £200 cash belonging to colleague B.*
- 3. The NMC apply to offer no evidence on these charges that were drafted on the basis of the contents of Colleague B's statement, the Case Examiners review and subsequent referral of all the Regulatory Concerns:*
- 4. Colleague B's witness statement stated that she was due to pay her rent and withdrew £500, her shift started at 2pm and ended at 8pm. She left her bag which had the £500 in the staffroom, which had no lockers.*
- 5. Colleague B states;*
- 6. "My shift ended at 8.15pm. When I got home I was supposed to pay my landlady however I realised I was missing £200".*

7. *The NMC has been unable to verify whether only one person was involved in the theft of the £200. Other people/staff would have had access to the staff room and the assertion that Mrs Jefford stole the £200 is therefore on assumption.*
8. *The NMC refers the Panel to the case of D v NMC (2014) at paragraph 26 and 27;*

26. The elimination exercise was based on the nursing staff rota. It proceeded on the fundamental assumption that, if a nurse was not on duty during a period when Cyclizine tablets appeared to have gone missing, she was eliminated from the investigation. On this basis, staff of the NHS Trust went through the rota incident by incident and eliminated any nurse who was not on duty at the time when tablets went missing. In this way nurses were eliminated one by one until only two nurses remained; these included the appellant. Apart from the nursing rota, the rotas for doctors and cleaners were also analyzed; the conclusion was that no single doctor or cleaner was thought to have been on duty on every occasion when tablets had gone missing. In that way they were all eliminated.

27. The first criticism of the methodology was the assumption that only one person was involved. We were not referred to any evidence that suggested affirmatively that only one person could have been involved. Consequently this was no more than an assumption. *If it were incorrect, it is obvious that the elimination exercise would have been defective. For example, if a particular nurse was not on duty during the time when the first incident occurred on 6–7 June 2011, she would be eliminated from further stages in the inquiry. If, however, one nurse had been responsible for the first incident only and another nurse had been responsible for all of the remaining incidents, the result would inevitably be flawed.*

9. *As a result, there is no longer a realistic prospect of proving the facts of charges 3 and 4. Furthermore, these charges do not add to the overall seriousness of the case as this was not the sole example of the described behaviour. Given the*

evidence, it is submitted that there is insufficient evidence on which to find charges 3 and 4 proved on the balance of probabilities.

10. It can only be assumed that the allegation is that Mrs Jefford took Colleague B's £200 because she had taken the Bank card of Colleague A. It is therefore submitted that the NMC could never prove that through this assumption Mrs Jefford's took the money.

11. The NMC invites the panel to consider its published guidance on offering no evidence. The Panel is invited to consider that this is an example of the limited circumstances where it is appropriate to offer no evidence in accordance with PSA v NMC & X [2018] EWHC 20 (Admin) paragraphs 55-57. When the NMC decides to apply to offer no evidence, it will always provide the evidence which it has gathered during its investigation to assist the Panel in making its decision.

12. If the Panel approves this application it is asked to provide reasons for its decision. In line with our guidance, the Panel is then invited to amend the charge under Rule 28(1) of the 2004 Fitness to Practise Rules to remove that part of the charges on which it has approved our application to offer no evidence. Mrs Jefford will not then have to answer to that part of the charges, and it will no longer form part of the allegation against her.

13. The following charges have been included in the draft agreement on the basis of the Panel accepting the approach outlined above and agreed between the parties. However, the parties acknowledge that this is a decision for the Panel.

The charge

14. Mrs Jefford admits the following charges;

- 1) Took a bank card belonging to colleague A and purchased goods for your own use.*

2) *Your actions as set out in charge 1 above were dishonest in that you knew you did not have permission to take and use colleague A's card.*

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

The facts

15. *Mrs Jefford appears on the register of nurses, midwives and nursing associates maintained by the NMC as an adult nurse and has been a registered nurse since 30 August 2003.*

16. *On 27 August 2020, the NMC received a referral from Cannon Care Homes ("Cannon Care") concerning Mrs Jefford's fitness to practise. At the material time, Mrs Jefford was employed by Cannon Care as a nurse working at Silverleigh Nursing Home ("the Home").*

17. *On 24 August 2020, three members of staff at the Home reported that, while they were working their shift on 24 August 2020 and their bags were locked in the staffroom: cash was stolen and their bank cards were used for unauthorised transactions at local shops and returned to their bag.*

18. *Devon and Cornwall police ("the police") were contacted and CCTV of a local store was viewed. Mrs Jefford was identified as using the debit cards by means of contactless transactions.*

19. *Mrs Jefford was interviewed and she denied both the theft of the debit cards and the cash. When informed of the CCTV footage, Mrs Jefford made admissions to theft of the debit cards but denied stealing any cash.*

20. *Mrs Jefford was dismissed by Cannon Care on 27 August 2020.*

21. *The police took no further action.*

Facts relating to charges 1 and 2

22. On 24 August 2020, Mrs Jefford took a bank card belonging to Colleague A and purchased goods for her own use. On 27 August 2020, Mrs Jefford initially denied taking using the bank card but subsequently admitted that she did.

23. Colleague A states;

“On Tuesday 25 August when checking my bank account I realised there were transactions on my card which I did not recognise. I then contacted my bank to query the transaction on my account. The bank gave me a detailed breakdown of the transactions made on my account which I made note of. There was a transaction at Tesco for £21.03 at 18:48 and a transaction for £8.95 at 18:58 at the coop”

24. Colleague A stated that the police informed “her that they matched the bank card to the till receipts from Tesco and were able to identify the (the registrant) using CCTV”

25. Mrs Jefford made admissions to charges 1 and 2 and that her fitness to practise is impaired on her returned Case Management Form dated 4 April 2022.

Mrs Jefford’s response

26. Mrs Jefford’s is unrepresented and has not provided any substantive response to the NMC in relation to the concerns. During the investigation Mrs Jefford’s admitted to taking the bank card however denied taking the £200 cash. On 29 September 2020 and 6 January 2022 Mrs Jefford explained that her actions were out of character and were borne from health and personal and family issues that she was going through at the time.

Misconduct

27. The misconduct in this case relates to concerns regarding dishonesty in that Mrs Jefford used colleague’s bank cards without authorisation to buy goods for her own use. Mrs Jefford’s failings are serious and fall short of what would be

expected of a registered nurse in the circumstances. The failings involve a serious departure from expected standards.

28. *In coming to this view, the Parties have had regard to the comments of Lord Clyde in Roylance v General Medical Council [1999] UKPC 16 which provide 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 practitioner in the particular circumstances”.

29. *One of the sources of standards that underpin nursing practice, as well as the standards that patients and members of the public can expect from health professionals, is The Code: Professional standards of practice and behaviour for nurses, midwives and nursing associates 2015 (‘the Code’). The Parties agree that the following sections of the Code, in place at the material time, were engaged, and breached, in this case:*

20 Uphold the reputation of your profession at all times

20.1 keep to and uphold the standards and values set out in the Code

20.2 act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment.

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

21 Uphold you position as a registered nurse, midwife or nursing associate.

~~25.4~~ 21.3 act with honest and integrity in any financial dealings you have with everyone you have a professional relationship with, including people in your care

30. *Mrs Jefford's conduct referred to in the charges fell short of what would have been expected of a nurse and represents a serious departure from the standards contained in the Code, as particularised above.*
31. *The Parties agree that the misconduct is serious because Mrs Jefford has committed a criminal offence (although the police took no further action). Whilst the nature of the offence is not at the most serious end of the spectrum of offences the commission of the offence forms part of the wider picture of her fitness to practise. Mrs Jefford's actions were dishonest and give rise to serious concerns about her trustworthiness as a nurse.*

Impairment

32. *The Parties agree that Mrs Jefford's fitness to practise is impaired by reason of her misconduct.*
33. *There is no definition of "impairment" provided by the NMC's legislative framework. However, the NMC defines "fitness to practise" as the suitability to remain on the register without restriction.*
34. *The Parties have considered the questions outlined by Dame Janet Smith in the Fifth Shipman Report, as to the factors that might lead to a finding of impairment. These questions were summarised by Cox J in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) at paragraph 76 in the following terms:*

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

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

- b. *has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c. *has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d. *has in the past acted dishonestly and/or is liable to act dishonestly in the future.*

35. *The Parties agree that all last 3 limb, namely b, c, d are engaged in this matter.*

36. *The Parties have also considered 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.”

37. *Mrs Jefford’s conduct relates to dishonesty therefore places her trustworthiness into question in the future.*

38. *The public, quite rightly, expect nurses to provide safe and effective care, administer medication correctly and to manage their time effectively. Mrs Jefford’s actions, as set out in the charges, brought the profession into disrepute and had the potential to undermine trust and confidence in the profession.*

39. *The provisions of the code constitute fundamental tenets of the nursing profession. Breaches of the Code, especially where they relate to basic nursing practice to provide safe and effective care and to do so within the scope of one’s competence, amount to a breaches of the fundamental tenets of the profession*

Remediation, reflection, training, insight, remorse

40. *Mrs Jefford has shown some insight by admitting to charges 1 and 2 in the case management form and also at local level, however no substantive response or reflection has been provided. Mrs Jefford's fitness to practise is therefore currently impaired. The Parties have given due regard to Cohen v General Medical Council [2008] 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;*

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

41. *Mrs Jefford's actions relate to misconduct and dishonesty, which cannot be remedied through training and supervision, and are more attitudinal issues.*

42. *Before effective steps can be taken to remedy the concerns, the nurse must recognise the problems that need to be addressed, and particularly demonstrate sufficient insight.*

43. *Mrs Jefford has not provided a substantive response to the allegation other than admitting the charge.*

44. *Mrs Jefford explained in her email dated 29 September 2020 (**Appendix A**):*

"[PRIVATE] I have not worked as a nurse since this incident and I do not wish to continue in this position. [PRIVATE]"

45. *Mrs Jefford has not worked in a nursing practice since the incident in 2020 and she has expressed that she does not intend on returning to nursing. Mrs Jefford has also been subject to an Interim Suspension Order since 29 September 2020, and therefore is unable to work as a registered nurse.*

Public protection impairment

46. *The Parties agree that there remains a significant risk of repetition, if Mrs Jefford was permitted to return to unrestricted practice. As such, a finding of current impairment is therefore necessary on the grounds of public protection.*

Public interest impairment

47. *The Parties agree that a finding of impairment is necessary on public interest grounds.*

48. *In Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) at paragraph 74 Mrs Justice Cox commented that:*

“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.”

49. *The Parties agree that the misconduct in this case is so serious, that a finding of impairment on the basis of public interest is required. Such a public declaration would assist in repairing the damage to the reputation of the profession caused by Mrs Jefford's actions. Therefore, in accordance with the comments of Mrs Justice Cox, this is a case where a finding of current impairment is required to declare and uphold proper professional standards and public confidence, and protect the reputation of the nursing profession.*

50. *The case is unrelated to the Mrs Jefford's clinical practice and as a result there is no risk of harm to patients as such. The balance on this case falls on public interest however the Parties agree that Mrs Jefford's fitness to practice is impaired on public protection and public interest grounds.*

Sanction

51. *The Parties have considered all sanction options open to the panel, starting with the least restrictive sanction and agree that the appropriate sanction in this case is a **Striking off Order**. Mrs Jefford's actions are so serious that the NMC submits that no other sanction is appropriate in this case.*

52. *In reaching this agreement, the Parties considered the NMC's published sanctions guidance ('the guidance'), bearing in mind that it provides guidance and not firm rules. In coming to this view, the Parties kept in mind the principle of proportionality and the principle that sanctions are not intended to be punitive but to protect the public interest. As in the case of Bolton v Law Society [1993] EWCA Civ 32, that 'since the professional body is not primarily concerned with matters of punishment, considerations which would normally weigh in mitigation of punishment have less effect on the exercise of this kind of jurisdiction'.*

Aggravating and mitigating features

53. *The panel may consider the aggravating features of this case are:*

- *Dishonesty when the allegations were initially raised. Admissions only being made in circumstances where Mrs Jefford knew the evidence against her was overwhelming.*
- *A failure to remediate/reflect on the concerns in any meaningful and practical way.*

54. *The panel may consider the mitigating features of this case are as follows:*

- *Isolated one-off incident*
- *Personal mitigation (albeit with the caveat that this is less relevant in regulatory proceedings than it would be in, for example, criminal proceedings).*

55. *The Parties firstly considered whether to take no action. However due to the seriousness of the concerns, the Parties agree that taking no further action would not address the public interest concerns in this case.*
56. *Similarly, a Caution Order would not address the seriousness of the concerns and maintain professional standards and Mrs Jefford has fallen short of the standards required*
57. *The Parties agree that a Conditions of Practice Order is also not appropriate sanction. Mrs Jefford has not worked as a nurse since the incident in 2020 and has expressed that she does not wish to return to the profession. Therefore Mrs Jefford would not be in a position to undertake a conditions of practice order. Nor would it be a suitable disposal given the dishonesty and attitudinal concerns. A conditions of practice order would simply not be workable nor appropriate.*
58. *A suspension order is not appropriate. With regard to the guidance published by the NMC in respect of suspension orders and the checklist intended to help with deciding whether one is appropriate the Parties agree that the misconduct in this case is a single instance of misconduct. It is, however, further agreed that the issues in this case evidence harmful deep-seated personality and/or attitudinal problems , that Mrs Jefford has no or limited insight and that there is a significant risk of repetition of the behaviour at issue in this case.*
59. *A striking off order is the only order that is appropriate in this case. The misconduct that occurred raises fundamental questions about Mrs Jefford's professionalism and is incompatible with ongoing registration. Public confidence in the NMC can only be maintained if Mrs Jefford is permanently removed from the register. It is the only sanction available which is sufficient to maintain professional standards. Mrs Jefford has fallen seriously short of the standard expected of a nurse. A striking off order would reflect the seriousness of the charges and would act in the public's interest.*
60. *In these circumstances, the Parties agree that a striking off order is appropriate.*

Referrer's and Colleague A's comments

61. *We received comments from the Referrer on 8 June 2022 agreeing to the provisional CPD agreement recommendation. They further stated;*

"I understand the recommendation and the reasons for this.

I have no further comments to add."

62. *We also received comments from Colleague A on 14 July 2022 in relation to the CPD agreement recommendation. Colleague A stated;*

"Good afternoon Yes definitely in support of strike off decision"

Interim order

63. *The Parties agree that an Interim Order for a period of 18 months is required in this case and is necessary for the protection of the public and in the public's interest during the appeal period.*

The Parties understand that this provisional agreement cannot bind a panel and that the final decision on findings of fact, 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 allegations, provided that it would be relevant and fair to do so.'

Here ends the provisional CPD agreement between the NMC and Mrs Jefford. The provisional CPD agreement was signed by Mrs Jefford and the NMC on 20 September 2022 and 28 September 2022, respectively.

Decision and reasons on application to offer no evidence

Ms Fazal made an application to offer no evidence in respect of charges 3 and 4. She referred the panel to the written submissions in the provisional CPD on this point, as well

as to *PSA v NMC & X* [2018] EWHC 20 (Admin) para 55-57 and the NMC's published guidance on offering no evidence.

The panel accepted the advice of the legal assessor.

The panel accepted the application. It determined there was no realistic prospect that charges 3 and 4 would be found proved on the balance of probabilities, based on the evidence provided by the NMC. It found the NMC's reasoning to be clear, and noted that Mrs Jefford had been given an opportunity to comment on the application, as drafted in the provisional CPD.

Decision and reasons on the CPD

The panel decided to accept the CPD.

The panel considered the submissions of Ms Fazal. 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 Mrs Jefford. 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 Mrs Jefford admitted the facts of charges 1 and 2. Accordingly, the panel was satisfied that charges 1 and 2 are found proved by way of Mrs Jefford's admissions, as set out in the signed provisional CPD agreement.

The panel noted that the NMC has offered no evidence in respect of charges 3 and 4. Accordingly, the panel was satisfied that charges 3 and 4 are not found proved, as set out in the signed provisional CPD agreement.

The panel saw no indication that Mrs Jefford has not understood the effects of seeking a CPD, and her responses in the case management form dated 4 April 2022 are consistent with the CPD dated 20 September 2022. It also noted that the NMC has sought comments from the referrer and interested parties.

Decision and reasons on misconduct and impairment

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

In respect of misconduct, the panel determined that Mrs Jefford's actions in stealing from a colleague and initially denying it fell far short of the standards of conduct and behaviour expected of a registered nurse, and clearly constituted serious misconduct.

In this respect, the panel endorsed paragraphs 27 to 31 of the provisional CPD agreement.

The panel endorsed paragraph 29 in respect of the breaches of the NMC Code as agreed by both parties. Of its own volition, the panel amended paragraph number '25.1' of the Code to read '21.3' to correct a clear typographical error. It was satisfied this amendment was necessary to provide clarity and would not cause injustice to either party.

The panel then considered whether Mrs Jefford's fitness to practise is currently impaired by reason of misconduct. It considered Mrs Jefford's acceptance of the facts as outlined in charges 1 and 2, but noted that this admission arose only after Mrs Jefford was presented

with incontrovertible evidence. The panel considered that Mrs Jefford had provided a limited explanation about her personal circumstances at the time early in the process, but had no further information about this. It did not have the benefit of a substantive response from Mrs Jefford, and saw no evidence of remorse, insight, or efforts she may have made to improve her practice in the two years since the incidents giving rise to the charges occurred. Accordingly, the panel concluded that there was a real risk of repetition, and determined that Mrs Jefford's fitness to practise is currently impaired on public protection grounds.

The panel also determined that Mrs Jefford's fitness to practise is currently impaired in the public interest. It considered that a fully informed member of the public would be concerned to learn that a nurse who had been caught misappropriating a colleague's bank card was able to practise without restriction.

In this respect, the panel endorsed paragraphs 32 to 50 of the provisional CPD agreement.

Decision and reasons on sanction

Having found Mrs Jefford'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:

- Mrs Jefford was dishonest when the allegations were initially raised. She made admissions only when she knew that the evidence against her was overwhelming.

- Mrs Jefford has failed to reflect on the concerns or improve her practice in any meaningful and practical way.

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

- The incident appears to be isolated and one-off.
- Mrs Jefford has offered personal mitigation; however, the panel noted that this is given less weight in regulatory proceedings.

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 Mrs Jefford'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 Mrs Jefford'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 Mrs Jefford's registration would be a sufficient and appropriate response. The panel noted that no clinical concerns have been raised, and found that no practical or workable conditions could be formulated that would protect the public and uphold the wider public interest, given the nature of the charges in this case. It also concluded that the placing of

conditions on Mrs Jefford's registration would not adequately address the seriousness of this case.

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

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating the behaviour;*

The panel considered that Mrs Jefford's misconduct was a single incident and may have been capable of remediation had she engaged more meaningfully with the fitness to practise process and provided evidence of reflection, remorse and efforts to strengthen her practice, as previously invited to do so by the NMC. It carefully considered whether a suspension order would protect the public and satisfy the public interest. However, it has heard no evidence from Mrs Jefford to suggest that she has developed insight or improved her practice, and concluded that this could be evidence of an attitudinal problem, and therefore a period of suspension would serve no useful purpose.

Mrs Jefford's misconduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. In the absence of any substantive engagement from Mrs Jefford, the panel has concluded that the serious breach of the fundamental tenets of the profession evidenced by Mrs Jefford's actions is fundamentally incompatible with Mrs Jefford remaining on the register.

In this particular case, the panel determined that a suspension order would not be an appropriate or proportionate sanction.

Finally, in considering 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?*

Mrs Jefford's actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with her remaining on the register. The panel found that in the absence of any meaningful engagement to show that she is no longer a risk to the public, to allow Mrs Jefford 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 considering all the evidence before it, the panel agreed with the CPD that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the matters it identified, in particular the effect of Mrs Jefford'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 professions, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

This will be confirmed to Mrs Jefford in writing.

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 is in Mrs Jefford's own interests until the striking-off sanction takes effect.

Ms Fazal asked the panel to impose an interim suspension order for a period of 18 months in order to protect the public during the appeal period. She submitted that an interim suspension order was also in the wider public interest, and referred the panel to the NMC's written submissions in the CPD on this point.

The panel 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 also otherwise in the public interest. The panel had regard to the seriousness of the misconduct 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 in order to protect the public and uphold the public interest. The panel considered that 18 months was an appropriate length of time to cover the time it may take for an appeal to be heard in the High Court.

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

That concludes this determination.