

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

**Substantive Meeting
Thursday 20 October 2022**

Nursing and Midwifery Council
2 Stratford Place, Montfichet Road, London, E20 1EJ

Name of registrant:	Tracy Jones
NMC PIN:	09H0143W
Part(s) of the register:	Registered Nurse – Mental Health Nursing (October 2009)
Relevant Location:	Camarthenshire
Type of case:	Misconduct
Panel members:	Anthony Griffin (Chair, lay member) Jim Blair (Registrant member) Isobel Leaviss (Lay member)
Legal Assessor:	Monica Daley
Hearings Coordinator:	Alice Byron
Consensual Panel Determination:	Accepted
Facts proved by admission:	Charges 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10
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 Meeting

The panel was informed at the start of this meeting that the Notice of Meeting had been sent to Miss Jones' email address on 15 September 2022.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, the time and the first possible date of the meeting.

In the light of all of the information available, the panel was satisfied that Ms Jones has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel noted that the Rules do not require proof of delivery and that it is the responsibility of any registrant to maintain an effective and up-to-date registered address.

Details of charge

That you a registered nurse

- 1. On 14 January 2019 signed to say that you had finished work at 20.00hrs when in fact you finished at 19.00hrs.*
- 2. Your actions at charge 1 were dishonest in that you sought to create the impression that you had completed your shift when you knew that you had not.*
- 3. On 8 February 2019 did not notify your line manager that you were not attending work which you are required to do.*

4. *On 8 February 2019 sent colleague 1 a text message stating 'can you tell Ms 1 I am unwell please, I am going to a friends house while the kids are in school, having a shit day, Ms 2 thinks I am with you though xxx'*
5. *Your actions at charge 3 were dishonest in that you did not notify your line manager that you were not in work in an attempt to conceal the fact that you were absent.*
6. *Your actions at charge 4 lacked integrity as you sought to use colleague 1 to cover up the fact that you were absent from work.*
7. *On 14 February 2019 when first presented by colleague 2 with an allegation that you were not present at work on 8 February 2019 gave a misleading account of where you were that day.*
8. *Your actions at charge 7 were dishonest in that you sought to create the impression that you had been present at work on 8 February 2019, when you knew that you had not.*
9. *On one or more of the following dates between September 2018 and November 2018 did not update your diary to accurately reflect your workload and/or put fictitious appointments in your diary*

9.1 4 September 2018

9.2 14 September 2018

9.3 18 September 2018

9.4 25 September 2018

9.5 1 October 2018

9.6 19 October 2018

9.7 6 November 2018

9.8 20 November 2018

9.9 27 November 2018

10. *Your actions at any and/or all of charge 9 were dishonest in that you sought to create the impression that you were attending to patients when you knew you were not*

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 meeting, the panel was made aware that a provisional agreement of a Consensual Panel Determination (CPD) had been reached with regard to this case between the Nursing and Midwifery Council (NMC) and Miss Jones.

The agreement, which was put before the panel, sets out Miss Jones' 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 an 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 Miss Tracy Jones ("Miss Jones"), PIN 09H0143W ("the Parties") agree as follows:

1. *Miss Jones is content for her case to be dealt with by way of a CPD meeting.*

The charge

2. *Miss Jones admits the following charges:*

That you a registered nurse

1. *On 14 January 2019 signed to say that you had finished work at 20.00hrs when in fact you finished at 19.00hrs.*
2. *Your actions at charge 1 were dishonest in that you sought to create the impression that you had completed your shift when you knew that you had not.*
3. *On 8 February 2019 did not notify your line manager that you were not attending work which you are required to do.*
4. *On 8 February 2019 sent colleague 1 a text message stating 'can you tell Ms 1 I am unwell please, I am going to a friends house while the kids are in school, having a shit day, Ms 2 thinks I am with you though xxx'*
5. *Your actions at charge 3 were dishonest in that you did not notify your line manager that you were not in work in an attempt to conceal the fact that you were absent.*
6. *Your actions at charge 4 lacked integrity as you sought to use colleague 1 to cover up the fact that you were absent from work.*
7. *On 14 February 2019 when first presented by colleague 2 with an allegation that you were not present at work on 8 February 2019 gave a misleading account of where you were that day.*
8. *Your actions at charge 7 were dishonest in that you sought to create the impression that you had been present at work on 8 February 2019, when you knew that you had not.*

9. *On one or more of the following dates between September 2018 and November 2018 did not update your diary to accurately reflect your workload and/or put fictitious appointments in your diary*

9.1 *4 September 2018*

9.2 *14 September 2018*

9.3 *18 September 2018*

9.4 *25 September 2018*

9.5 *1 October 2018*

9.6 *19 October 2018*

9.7 *6 November 2018*

9.8 *20 November 2018*

9.9 *27 November 2018*

10. *Your actions at any and/or all of charge 9 were dishonest in that you sought to create the impression that you were attending to patients when you knew you were not*

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

The facts

3. *Miss Jones appears on the register of nurses, midwives, and nursing associates maintained by the NMC as a Registered Nurse specialising in mental health and has been a Registered Nurse since 1 October 2009.*
4. *The NMC received a referral regarding Miss Jones' fitness to practise on 7 May 2019. The referral was anonymous. A further referral was made on 28 August 2019 Hywel Dda University Health Board ('the Board'). At the time of the concerns raised in the referral, Miss Jones was working as a Band 6 Mental Health Practitioner at Primary Care Mental Health Support Service ('the Service').*
5. *The regulatory concerns identified and investigated by the Nursing and Midwifery Council ('NMC') were as follows:*

- 1. Scheduled bogus mental health appointments*
- 2. Failing to record the cancellation of patient appointments*
- 3. Unauthorised absences from work*
- 4. Failing to record or notify of absences from work*
- 5. Lied about and/or induced colleagues to lie about, or cover up, absences from work*
- 6. Miss Jones' conduct was dishonest*
- 6. On 8 February 2019, Miss Jones was supposed to be in the hospital running a clinic when it was noticed that an unusually high number of referrals were being faxed through to the office. This was unusual as ordinarily Miss Jones would collect the referrals and bring them back to the office with her on her next day at work.*
- 7. Colleague 3, the team leader contacted the hospital and was told Miss Jones was off sick. Miss Jones had not told Colleague 3 that she was off sick and Miss Jones' diary appeared to be full for that day with appointments. Miss Jones had sent a text to Colleague 1, a Mental Health Practitioner who was also in the clinic that day telling them to inform the hospital she was unwell but that Colleague 3 thought Miss Jones was with Colleague 1.*
- 8. Colleague 3 identified that the patients who had scheduled appointments with Miss Jones that day had either already been discharged from the service or signposted elsewhere and were not under Miss Jones care. Colleague 3 concluded that the appointments were false and were in Miss Jones' diary to make it appear as though she was busy so Miss Jones could take unauthorised time off work.*
- 9. Colleague 3 did a review of Miss Jones diary over the previous months and identified that on a number of occasions bogus appointments had been created for patients who did not need to be seen by Miss Jones. The suggestion was that Miss Jones would use that time to not attend or leave work early.*
- 10. An investigation was carried out where Miss Jones denied that she had deliberately created appointments for patients that did not need to be seen, stating that she would often prepopulate her diary then forget to cancel if a patient was discharged or seen*

elsewhere. Miss Jones denied her text to Colleague 1 was a bid to get them to cover for her absence to Colleague 3. [PRIVATE]

11. Following a hearing in August 2019 Miss Jones was summarily dismissed from her post for gross misconduct.

Facts about charges 1 and 2

12. On 14 January 2019 Miss Jones signed to say that she had finished work at 20:00hrs when in fact she finished at 19:00hrs, which was dishonest.

13. Witness 1, investigating officer in their statement states;

“On 14 January 2018 there was an entry in the signing in book at Llys Steffan concerning Colleague 4 and Tracy. Colleague 4 was concerned that she had worked until 19:00 hours and left at the same time as Tracy, but in the sign-in book Tracy had signed them both out at 20:00 hours. This indicates that Tracy made a false entry. As a consequence of this Colleague 4 took 2 hours as time off in lieu whereas Tracy didn't and signed them off early. She signed them both out an hour earlier than they did finish.”

Facts about charge 3 and 5

14. On 8 February 2019 Miss Jones did not notify her line manager Colleague 3 that she was not attending work which Miss Jones is required to do, which therefore was dishonest.

15. Colleague 3 states in her witness statement;

“We have a small team. So they can phone and speak to me or someone else on the team about absence. They can leave a message on the answer phone but the procedure is that you must phone the office to notify us of any absences.”

Facts about charges 4 and 6

16. On 8 February 2019 Miss Jones sent a text message to Colleague 1 stating “can you tell Ms 1 I am unwell please, I am going to a friends house while the kids are in school, having a shit day, Ms 2 thinks I am with you though xxx”, which was dishonest.

17. Colleague 1 states in her statement that;

“On that day, I think it was 8 February 2019, I didn’t know what she was asking me to do that because I only saw the first line of the message notification. I was link working and hadn’t opened the message so all I could see was ‘can you tell Ms 1 I am unwell’. I went ahead and asked for her room to be cancelled. I didn’t know at that point that no one else knew that she wasn’t coming in. It was really awkward when it unfolded. I don’t know why Tracy thought she couldn’t report her absence in line with usual process. I thought her and Ms 2 were quire close so it was strange.”

Facts about charges 7 and 8

18. On 14 February 2019 when first presented by colleague 2, the Service Manager with an allegation that Miss Jones was not present at work on 8 February 2019, Miss Jones’ gave a misleading account of where she was that day.

19. Colleague 2 states in their telephone call with the NMC dated 9 July 2021

“I presented TJ with the allegations that her line manager Ms 2 had shared with me. TJ said that she had been into work on that day at Cardigan, but had left early because she received a call regarding one of her children at school. She also told me that she had seen two patients that day.”

Facts about charges 9 and 10

20. On one or more of the following dates between September 2018 and November 2018 Miss Jones did not update her diary to accurately reflect her workload and/or put fictitious appointments in her diary

4 September 2018

14 September 2018

18 September 2018

25 September 2018

1 October 2018

19 October 2018

6 November 2018

20 November 2018

26 November 2018

21. *Witness 1 states in his statement;*

“There was a pattern of appointments that had been entered falsely from September 2018 to November 2018 at 4.35 of (Exhibit PE/1). There were appointments that had been entered for patients which Tracy herself had discharged from the programme, which was more concerning. Evidence was provided from a colleague who worked with her on Friday, 8 February 2018, she stated that Tracy had a full diary for that day, but there was a high failed to attend rate and a lot of appointments were shown as discharged or signposted on the Care Partner database. This supported the assertion that she had made bogus entries and/or she wasn't attending the appointments, nor was she cancelled them.”

22. *Colleague 3 further states in her statement;*

“On investigating further it was then that we uncovered that the appointment were fictitious. I then did some random checking in Tracy's electronic diary and identified dates in September (4th, 18th 25th) and 2 October 2019 when I was checking which patients were supposed to be seen at her diary, after the incident on 9 February 2019, I wasn't aware at the time that these were false appointments at the time. I informed my manager, the fraud team were contacted and he arranged to see Tracy.”

23. *Miss Jones is no longer working as a nurse.*

24. *Miss Jones initially denied the concerns during the local investigation. However a full admission was made to the NMC during the course of the investigation and Miss Jones admits the charges in her case management form and that her fitness to practise is impaired.*

Misconduct

25. *The misconduct in this case relates to concerns regarding behaving dishonestly as a nurse in a clinical setting as per paragraph 5. Miss Jones' 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 and put patients at risk of harm. These failings are likely to cause risk to patients in the future if they are not addressed.

26. *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”.

27. *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:*

8: Work Cooperatively

8.5 work with colleagues to preserve the safety of those receiving care

8.6 share information to identify and reduce risk

10: Keep clear and accurate records relevant to your practice

10.1 complete all records at the time or as soon as possible after an event, recording of the notes are written sometime 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 all records accurately and without any falsification taking immediate and appropriate action if you become aware that someone has not kept to these requirements

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

21: Uphold your position as a registered nurse, midwife or nursing associate

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

25: Provide leadership to make sure people's wellbeing is protected and to improve their experiences of the health and care system

25.1 identify priorities, manage time, staff and resources effectively and deal with risk to make sure that the quality of care or service you deliver is maintained and improved, putting the needs of those receiving care or services first

28. Miss Jones' 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.
29. The Parties agree that the concerns in this case relate to basic, but fundamental, aspects of nursing which at all times should be carried out appropriately and effectively. It is further agreed that, the concerns referred to in the charges persisted and the dishonesty continued over a long period of time.
30. The Parties also agree that the concerns in this case were not isolated. They were wide-ranging and occurred on more than one date. This, in itself, is indicative of a pattern demonstrating misconduct.
31. The areas of concern identified relate to basic nursing management and professionalism requirements. The failings involve a serious departure from expected standards.

Impairment

32. The Parties agree that Miss Jones' 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 4 limbs are engaged in this matter.*

36. *With regard to past conduct, Miss Jones’ dishonesty is directly related to her practice as a nurse and involved creating inaccurate records of contact between herself and patients over a prolonged period. That dishonesty was then compounded by Miss Jones’ further dishonesty in attempting to cover up her absence/distort her workload, both on 08 February 2019 when she asked Colleague 1 to lie for her and in her initial response when challenged about her conduct on 14 February 2019. The time sheet issue at charges 1 and 2 is conceptually slightly different to the other issues in this case but nonetheless speaks to Miss Jones’ dishonesty.*

37. *Miss Jones' conduct created a risk to patients by distorting the record of their interactions with professional services. Her dishonesty breached the fundamental tenets of the profession as articulated above by the provisions of the Code cited and brought the profession into disrepute.*

Remediation, reflection, training, insight and remorse

38. *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.*

39. *Dishonesty is not easily remedied (per NMC guidance FTP-3a) and could point to a more serious problem of attitudinal and behavioural issues. In particular, it is unlikely to be remedied through training and supervision which, in any event, Miss Jones has not undergone having not worked in a nursing capacity since being dismissed in August 2019.*

40. *Miss Jones has demonstrated some insight through her admissions but she has been unable to fully articulate why she acted as she did and what steps she has taken/ could take to give confidence she will not act in a similar manner in future.*

41. *In her response to the Case Examiners sent on 18 September 2021, Miss Jones explained:*

"I can only apologise for my dishonest conduct and just hope that you will see that there was no intention of malice at all with my conduct. [PRIVATE].

.....

"I am appalled and ashamed at how I coped previously and the consequences where I acted completely out of character. I placed pressure on my colleagues, the service and I was not available emotionally for my patients. I will never forget this

and I only have my assurance to you that I will never do this again. I am at the point where I can say that I would rather lose my job [PRIVATE] than cause others to experience the consequences of my actions. [PRIVATE].

42. *In her regulatory response sent 10 October 2019, Miss Jones accepted the regulatory concerns RC1-6 and she acknowledged that her conduct ‘was wrong,’ [PRIVATE].*

43. *[PRIVATE]*

44. *In the light of the above, the Parties agree that Miss Jones’ conduct has not been remedied and she cannot be said to be highly unlikely to repeat her conduct in future.*

Public protection impairment

45. *As set out above, there remains a risk of Ms Jones engaging in similar conduct to that charged if allowed to practise without restriction. A finding of current impairment is therefore necessary on the grounds of public protection.*

Public interest impairment

46. *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.”

47. *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. 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.*

Sanction

48. *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. Miss Jones' actions are so serious that the NMC submits that no other sanction is appropriate in this case.*

49. *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

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

- *Miss Jones pre meditated dishonesty in a clinical setting.*
- *The repetition of misconduct and dishonest acts over a period of time.*
- *This was not an isolated incident*

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

- *Acceptance of all concerns and charges*
- *No actual harm to patients*

52. *The Parties firstly considered whether it would be appropriate for no further action to be taken of a caution order imposed. Neither disposal would address the public protection concerns in this case nor adequately reflect the seriousness of Miss Jones' misconduct.*

53. *A conditions of practice order would not be appropriate in this case for a number of reasons. San 3c states:*

“Conditions 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”*

54. Miss Jones has not worked as a nurse since August 2019 and therefore would not be in a position to undertake a conditions of practice order. Nor would it be a suitable disposal given the repeated dishonesty and attitudinal issues in this case. A conditions of practice would simply not be workable nor appropriate.

55. A suspension order is not appropriate in this case. NMC guidance San 3d provides a checklist to help decide whether a suspension order is appropriate or not. This is not a case of a single incident of misconduct but repeated dishonesty. Miss Jones has also demonstrated an attitudinal issue in his conduct.

56. A striking off order is the only order that is appropriate in this case. NMC guidance San 3e states:

“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?”*

57. The misconduct that occurred raises fundamental questions about Miss Jones’ professionalism and is incompatible with ongoing registration. Public confidence in the NMC can only be maintained if Miss Jones is permanently removed from the register. It is the only sanction available which is sufficient to protect patients, members of the public and maintain professional standards. Miss Jones has fallen seriously short of the standard expected of a nurse.

58. In coming to this view the Parties have considered the NMC’s guidance on ‘Considering sanctions for serious cases [SAN-2]’ and note the following aspect which are said to be ‘more likely to call into question whether a nurse ... should be allowed to remain on the register’ and which are present in this case:

- deliberately breaching the professional duty of candour by covering up when things have gone wrong, especially if it could cause harm to patients*
- ...*
- ...*
- personal financial gain from a breach of trust*
- ...*
- premeditated, systematic or longstanding deception*

59. The Parties agree that one of the factors said to be suggestive of less serious dishonesty are present in this case.

Referrer's comments

60. We have yet to receive comments from the Referrer. The panel can be updated as to their view at the CPD meeting if a response has been provided.

Interim order

61. The Parties agree that there is a risk of repetition should Miss Jones be permitted to practise without any restrictions. The Parties agree that an Interim Suspension Order for a period of 18 months is required in this case and is necessary for the protection of the public during the appeal period. The parties also agree that an Interim Suspension Order is otherwise in the public interest in view of the agreement that Miss Jones' conduct is fundamentally incompatible with continued registration.

62. 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 Miss Jones. The provisional CPD agreement was signed by Miss Jones on 25 August 2022 and the NMC on 12 September 2022.

Decision and reasons on the CPD

The panel decided to accept the CPD.

The panel noted that Miss Jones admitted the facts of the charges. Accordingly the panel was satisfied that the charges are found proved by way of Miss Jones' admissions as set out in the signed provisional CPD agreement.

The panel heard and accepted the legal assessor's advice. She referred the panel to the 'NMC Sanctions Guidance' (SG) and to the 'NMC's guidance on Consensual Panel Determinations'. She reminded the panel that they could accept, amend or outright reject the provisional CPD agreement reached between the NMC and Miss Jones. 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.

Decision and reasons on misconduct and impairment

The panel then went on to consider whether Miss Jones' actions amounted to misconduct, and if fitness to practise is currently impaired. Whilst acknowledging the agreement between the NMC and Miss Jones, the panel has exercised its own independent judgement in reaching its decision on misconduct and impairment.

In respect of misconduct, the panel determined that the charges collectively can properly be described as serious. The panel noted that the misconduct spanned for a period of five months from September 2018 to January 2019, and constituted serious and significant departures from the Code, involved dishonesty and fell far short of the expectations of a registered nurse.

In this respect, the panel endorsed paragraphs 25 to 31 of the provisional CPD agreement in respect of misconduct.

The panel then considered whether Miss Jones' fitness to practise is currently impaired by reason of misconduct. The panel determined that Ms Jones' fitness to practise is

currently impaired. It bore in mind that there is no standard of proof, and the decision is a matter for the panel's own professional judgment based on the evidence before it.

The panel noted that Ms Jones had agreed that she is currently impaired, however went on to make its own consideration in respect of impairment. The panel bore in mind that Miss Jones' dishonesty related to her clinical practice, in that she claimed to have attended to patients when she did not, and put fictitious appointments in her diary. The panel acknowledged that Miss Jones has expressed some remorse for her actions. Regarding insight, on the basis of the evidence before it, the panel considered that Ms Jones' admissions failed to properly demonstrate an understanding of how her actions put the patients at a risk of harm, nor has she adequately demonstrated an understanding of why what she did was wrong and how this impacted negatively on the reputation of the nursing profession.

In its consideration of whether Miss Jones has taken steps to strengthen her practice, the panel took into account that Miss Jones has not worked as a nurse since 2019 and expressed that she has no future intention to return to nursing. In light of this, the panel was of the view that, on the basis of the evidence before it, there was no information to suggest that Miss Jones had taken any steps to strengthen her practice, nor has she provided evidence of remediation.

The panel is of the view that there is a risk of repetition, as acknowledged by Miss Jones. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

In this respect the panel endorsed paragraphs 32 to 47 of the provisional CPD agreement.

Decision and reasons on sanction

Having found Miss Jones' 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 took into account the following aggravating features:

- Miss Jones' pre-meditated dishonesty in a clinical setting;
- The repetition of misconduct and dishonest acts over a period of time;
- This was not an isolated incident

The panel also took into account the following mitigating features:

- Acceptance of all concerns and charges
- No actual harm to patients

The panel also considered it to be an aggravating feature that Miss Jones sought to involve a colleague in her dishonest actions. [PRIVATE].

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Miss Jones' practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered

that Miss Jones' misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Miss Jones' 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 related to dishonesty and attitudinal concerns which is not something that can likely be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Miss Jones' 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:

- *No evidence of repetition of behaviour since the incident;*

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Miss Jones' actions is fundamentally incompatible with Miss Jones remaining on the register.

In this particular case, the panel agreed 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?*

Miss Jones' actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with her remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Miss Jones' actions were serious and to allow her 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 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 Miss Jones' 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 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

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 Ms Jones' own interest. 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 due to cover the period of any potential appeal of this order.

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

That concludes this determination.