

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

**Substantive Hearing
Tuesday 28 November 2023 – Tuesday 5 December 2023**

Virtual Hearing

Name of Registrant: Titilola Aromona

NMC PIN 9616465E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing – 4 October 1999

Relevant Location: The Highland Council

Type of case: Misconduct

Panel members: Simon Banton (Chair, lay member)
Richard Weydert-Jacquard (Registrant member)
Vicki Harris (Lay member)

Legal Assessor: Charles Conway

Hearings Coordinator: Catherine Blake

Nursing and Midwifery Council: Represented by Beverley Da Costa, Case Presenter

Mrs Aromona: Present and not represented

Facts proved: Charges 1, 2, 3, and 4

Fitness to practise: Impaired

Sanction: Striking off order

Interim order: **Interim suspension order (18 months)**

Details of charge

That you, a registered nurse:

- 1) Stated in your application form to Barchester Healthcare dated 26 May 2020 that your reason for leaving Manley Court Care Home was because you needed more hours and not that you had been suspended by your employer.
- 2) Continued to work as a nurse after 4 August 2021 despite being aware that you were subject to an interim suspension order imposed by the NMC on 26 July 2021.
- 3) Your conduct at charge 1 was dishonest and/or demonstrated a lack of integrity in that you attempted to conceal from Barchester Healthcare that you had been suspended by Bupa.
- 4) Your conduct at charge 2 was dishonest in that you worked as a nurse knowing that you had been suspended by the NMC.

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

Background

You were referred to the NMC in November 2020 by Bupa following allegations that you failed to escalate care in February 2020.

You were suspended by Bupa immediately following the incident. In May 2020, whilst suspended from Bupa, you applied for new employment with Barchester Healthcare (Barchester). It is alleged that, on the job application form, you stated that your reason for leaving Bupa was: '*needs more hours*'. The document makes no reference to the Bupa suspension. On 2 July 2020, you were dismissed from Bupa.

On 12 July 2020 you began employment with Barchester as a registered nurse

initially at the Emily Jackson Care Home, and in October 2020 transferred within Barchester to the Westwood Care Home (the Home).

In November 2020, you were sent written notification from the NMC of Bupa's referral.

An interim suspension order was imposed on you by the NMC on 26 July 2021.

In October 2021, following a routine employee compliance check, the Home's manager was notified that you were subject to an interim suspension order and you were immediately suspended from Barchester.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor, which included reference to paragraph 74 of *Ivey v Genting Casinos (UK Limited) (2017) UKSC 67*, and took into consideration the NMC guidance on dishonesty. It considered the witness and documentary evidence provided by both the NMC and by you.

The panel then considered each of the disputed charges and made the following findings.

Decision and reasons on facts

At the outset of the hearing you informed the panel that you disputed all charges.

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Ms Da Costa on behalf of the Nursing and Midwifery Council (NMC) and those made by you.

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

The panel heard live evidence from the following witnesses called on behalf of the NMC:

- Witness 1: Deputy Home Manager at Westwood House Care Home at the time of the incident.
- Witness 2: NMC Senior Screening Case Officer at the time of the incident.
- Witness 3: Bupa Regional Director at the time of the incident.

The panel also heard evidence from you under affirmation.

Decision and reasons on application for hearing to be held in private

During witness evidence, Ms Da Costa made a request that this case be held partially in private as and when matters pertaining to [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

You indicated that you did not oppose the application.

The panel determined to go into private session as and when matters pertaining to health were raised.

Charge 1

Stated in your application form to Barchester Healthcare dated 26 May 2020 that your reason for leaving Manley Court Care Home was because you needed more hours and not that you had been suspended by your employer.

This charge is found proved.

In reaching this decision, the panel took into account the oral evidence from you, and the written and oral evidence from Witness 1.

The panel took into consideration your job application form to Barchester. It is clearly stated on your application form that your reason for leaving your previous post was because you needed more hours. There is nothing on the application form that mentions you had been suspended by Bupa. Accordingly, the panel found charge one to be proved.

Charge 3

Your conduct at charge 1 was dishonest and/or demonstrated a lack of integrity in that you attempted to conceal from Barchester Healthcare that you had been suspended by Bupa.

This charge is found proved.

In reaching this decision, the panel took into account the oral evidence from you, the oral and documentary evidence from Witness 1, and other documentary evidence.

The panel took into consideration your job application form to Barchester in which you did not disclose your suspension. The panel considered that while the form did not specifically require you to disclose whether you were currently subject to disciplinary proceedings, it did invite full disclosure of relevant circumstances. In reaching this conclusion, the panel had regard to the job description which stated that a requirement of the job is compliance with the NMC Code of Conduct at all times. This Code requires openness, honesty and transparency. The panel considered that the Code, combined with the duty of candour that forms part of the ethos of nursing, creates an expectation that a registrant should disclose to a future employer anything that might affect their practice. As you acknowledged in your evidence, you were aware that you had been suspended from Bupa pending an

investigation of the incident that occurred in February 2020; and the panel determined that this was relevant information which you were required to disclose to Barchester.

The panel acknowledged that you were subject to a precautionary suspension and had not become a dismissal, which you pointed out in your evidence. You stated in evidence that because you had not been dismissed at that point it was *'irrelevant'* to disclose the suspension. Therefore, the panel considered that you must have known that the suspension could lead to a dismissal. The panel had mind to your oral evidence, in which you acknowledged that the job at Barchester was a *'second chance'* for you and you did not want to jeopardise it. The panel determined this means you knew that the suspension could affect your employment and that Barchester would be interested to know.

The panel also considered that you did not inform Barchester once you found out you had been dismissed from Bupa on 2 July 2020. The panel noted your oral evidence in which you said you did not inform Barchester of your dismissal because you wanted to move on, and because you were two months into your three-month probation period at Barchester. You stated that *'there was no way I was going to compromise this opportunity for me'*. The panel was of the view that you put your personal interest above your duty of candour to your employer and considered that this was indicative of a mindset in which you sought opportunity for yourself by omitting to disclose the suspension on the job application form.

The panel also noted your comments about not mentioning the suspension or dismissal to Barchester, saying it was *'better for me'*. The panel was of the view that this comment went to your state of mind when drafting your job application. It inferred that you made a mindful act choosing not to include the original information on your application; and that this was a premeditated obfuscation of the truth.

In response to panel questions regarding a nurse's duty of candour, you stated that it means to be *'honest as much as possible'*. The panel was concerned by the material qualification of being honest 'as much as possible'. The panel also noted that integrity requires plain, straightforward speaking and was of the view that by not

disclosing your suspension to Barchester you had not demonstrated integrity. Therefore, on the balance of probabilities, the panel determined that this charge is found proved.

Charge 2

Continued to work as a nurse after 4 August 2021 despite being aware that you were subject to an interim suspension order imposed by the NMC on 26 July 2021.

This charge is found proved.

In reaching this decision, the panel took into account the oral evidence from you, and the written and oral evidence of Witnesses 1 and 2.

The panel considered the oral evidence of Witness 1, who stated that after you received the notice of the interim suspension order, you had not asked to work as a healthcare assistant (HCA), as you claimed in your evidence, instead of working as a registered nurse. Further, the panel accepted as cogent and reliable Witness 1's evidence obtained from HR records which listed the dates of 27 shifts when you had worked as a nurse in the Home from 4 August 2021 after your PIN had been suspended.

The panel also considered the minutes from the meeting between you and the General Manager of the Home on 12 October 2021. The panel noted that the General Manager asked you twice why you did not disclose your interim suspension order from the NMC. The panel determined that this confirmed that your Barchester manager was not aware of the interim suspension order until informed earlier in October. You apologised for not informing the Home of the interim suspension order. The panel considered that your apology demonstrated that you must have been aware of the interim suspension order. The panel noted your claim that you negotiated working as an HCA with the General Manager after the interim suspension order was imposed. The panel did not find this credible as the General Manager was unaware then of the interim suspension order which required you no

longer to work as a registered nurse. The panel noted that the contents of the minutes were not disputed by you.

The panel rejected your alternative explanation that you worked as an HCA during the period from 27 July 2021 and October 2021, concluding that this assertion is incompatible with the minutes and Witness 1's oral evidence.

The panel also considered the documentary evidence of Witness 2, which included an email that indicates you knew an interim suspension order had been imposed by 28 July 2021. The panel also noted the email received by the NMC on 4 August 2021 in which you requested an early review of the interim order. The panel did not consider there was any reason to doubt the validity of these emails.

The panel determined, on the balance of probabilities, that this charge is found proved.

Charge 4

Your conduct at charge 2 was dishonest in that you worked as a nurse knowing that you had been suspended by the NMC.

This charge is found proved.

In reaching this decision, the panel took into account the oral evidence from you, and the written and oral evidence of Witnesses 1 and 2.

The panel found that you were aware of the interim suspension order by virtue of your meeting with the Home's General Manager, and the email to Witness 2 on 4 August 2021 in which you describe the order as a *'harsh decision'*.

Further, the panel concluded that by continuing to work as a registered nurse after 4 August 2021 when you were aware that you were subject to an interim suspension order, you were acting dishonestly by the standards of ordinary, decent people.

Having determined that you continued to work as a nurse despite knowing you were subject to an interim suspension order, the panel concluded that you prioritised your personal interests over that of the profession, and were acting dishonestly.

Therefore, on the balance of probabilities, the panel determined that this charge is found proved.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether your fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, your fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

In coming to its decision, the panel had regard to the case of *Roylance v General Medical Council (No. 2)* [2000] 1 AC 311 which defines misconduct as a '*word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.*'

Ms Da Costa invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of 'The Code: Professional standards

of practice and behaviour for nurses and midwives (2015) (the Code) in making its decision.

Ms Da Costa submitted that there were serious breaches of the Code, which amounted to misconduct. She submitted that you did not comply with your duty of candour, and in doing so breached paragraphs 20, 21, and 23 of the Code in their entirety. Regarding paragraphs 20 and 21, Ms Da Costa submitted that you failed to act with honesty and integrity and therefore did not uphold the reputation of the profession, nor your position as a registered nurse, respectively. Regarding paragraph 23, and the requirement to cooperate with all investigations and audits, Ms Da Costa submitted that your conduct fell far short of the Code and what would have been expected of a nurse in your position. She drew the panel's attention to sub paragraph 23.3 in particular, and the requirement to inform an employer of restrictions on your practice or conditions imposed on you.

Ms Da Costa submitted that a nurse with your experience would have been aware of the duty of candour, the expectations on you to disclose your interim suspension order to your employer, and the seriousness of failing to comply with the interim suspension order.

Ms Da Costa submitted that the duty to act with honesty and integrity is integral to a nurse's role and a failure to comply with that is a serious departure from the Code. She submitted that you should have been aware that your conduct would bring the profession into disrepute.

Ms Da Costa further submitted that members of the public would be very concerned to discover that a nurse with your experience and knowledge was engaged in such conduct and dishonesty, which led to you working over 20 shifts while subject to an interim suspension order. Ms Da Costa submitted that this conduct showed a disregard for the profession and the Regulator.

Submissions on impairment

Ms Da Costa moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Ms Da Costa submitted that your practice is currently impaired and that all four limbs of the test in *CHRE v NMC and Grant* are engaged. She submitted that your conduct put patients at an unwarranted risk of harm. The imposition by the NMC of an interim suspension order meant that it had been judged there was a risk of harm to patients.

Ms Da Costa also submitted, by reference to the second limb in *Grant*, that by working while suspended you showed a disregard for the nursing profession, the NMC as regulator, and your employer, and that this would bring the profession into disrepute.

Ms Da Costa submitted that you breached a fundamental tenet of the profession by failing in your duty of candour, which requires honesty and integrity.

Regarding the fourth limb of dishonesty, Ms Da Costa referred to your evidence and that the reason you did not mention your suspension to Barchester is because it was better for you not to, and that you did not want to compromise this opportunity for yourself. She further reminded the panel that you stated that you understood the duty of candour meant to be '*as honest as possible*'. Ms Da Costa submitted that you showed a willingness to be dishonest in order to prioritise your own personal interests. She also submitted that you demonstrated a lack of insight or remediation, and that there is a clear risk of dishonesty in future.

Ms Da Costa submitted that your conduct posed a risk of harm to patients and there is a risk of repetition, and that you are impaired on the grounds of public protection and public interest.

You were asked whether you wanted to give evidence and declined. You made a number of submissions that the panel did not consider relevant to the question of misconduct and impairment. The panel therefore put the following questions to you in writing, and allocated a significant period of time for you to prepare your responses:

Do you accept that you were in breach of NMC Codes 20, 21 and 23? If not, why not?

You did not accept this. You stated at Bupa you were not under suspicion and continued to be paid. You needed to work and [PRIVATE] and took the opportunity to work at Barchester.

Do you accept that these breaches are serious? If not, why not?

You said that you accepted these breaches are serious.

Do you accept in the future that you are liable to put a patient at risk of harm? If not, why not?

You did not accept this. You explained to the panel that you have never had any complaints raised against your nursing practice before this. You stated that you have a high standard of work and provide a high quality of care.

Do you accept in the future that you are liable to bring the profession into disrepute? If not, why not?

You did not accept this because you said you know the Code of conduct and carry it out to the best of your ability.

Do you accept in the future that you are liable to bring one of the fundamental tenets of the profession into disrepute? If not, why not?

You did not accept this. You said that you are used to working within a multi-disciplinary team and that you would not be the one to bring them into disrepute.

Do you agree that your fitness to practice is currently impaired? If not, why not?

You did not accept this. You said that, even though you are planning early retirement, you are fit and undertaking relevant online training so that you can stay within the profession if given another chance.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, *Cohen v GMC* [2008] EWHC 581 (Admin) and *CHRE v (1) NMC (2) Grant* [2011] EWHC 927.

Decision and reasons on misconduct

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code.

The panel was of the view that your actions did fall significantly short of the standards expected of a registered nurse, and that your actions amounted to breaches of the Code. Specifically:

'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

20.3 be aware at all times of how your behaviour can affect and influence the behaviour of other people

...

20.8 act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to

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

23 Cooperate with all investigations and audits

This includes investigations or audits either against you or relating to others, whether individuals or organisations. It also includes cooperating with requests to act as a witness in any hearing that forms part of an investigation, even after you have left the register.

...

23.2 tell both us and any employers as soon as you can about any caution or charge against you, or if you have received a conditional discharge in relation to, or have been found guilty of, a criminal offence (other than a protected caution or conviction)

23.3 tell any employers you work for if you have had your practice restricted or had any other conditions imposed on you by us or any other relevant body.

23.4 tell us and your employers at the first reasonable opportunity if you are or have been disciplined by any regulatory or licensing organisation, including those who operate outside of the professional health and care environment'

The panel understood that breaches of the Code do not automatically result in a finding of misconduct. The panel though considered that while all the charges found proved amounted to serious breaches of the Code, the breaches of the Code pertaining to charges 2 and 4 were particularly so. Having mind that all charges have

been found proved, the panel found that your actions did fall seriously short of the conduct and standards expected of a registered nurse and amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, your fitness to practise is currently impaired.

In coming to its decision, the panel had regard to the Fitness to Practice Library, updated on 27 March 2023, which states:

‘The question that will help decide whether a professional’s fitness to practise is impaired is:

“Can the nurse, midwife or nursing associate practise kindly, safely and professionally?”

If the answer to this question is yes, then the likelihood is that the professional’s fitness to practise is not impaired.’

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. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients’ and the public’s trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* in reaching its decision. In paragraph 74, she said:

‘In determining whether a practitioner’s fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.’

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

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

- a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d) has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

The panel considered that limbs a, b, c and d of *Grant* are engaged in this case.

The panel determined that patients were put at risk of harm as a result of your misconduct. The panel was concerned that you appeared to refuse to submit to regulatory or professional oversight, as such the panel determined that you would be liable in the future to put patients at risk of harm.

The panel determined that in your misconduct you had breached the duty of candour and compromised your professional integrity and as such judged that you had breached two fundamental tenets of the nursing profession. Consequently, the panel determined that your failures had brought the nursing profession into disrepute.

The panel was satisfied that confidence in the nursing profession would be undermined if its Regulator did not judge charges relating to dishonesty were most serious.

Regarding insight, the panel had received little evidence that you had demonstrated adequate insight or reflection into our actions.

The panel considered that you struggled to accept that you were dishonest. It determined that you remain entrenched in your view that you were not wrong in continuing to work as a nurse while subject to an interim suspension order, rather continuing to believe that such an order was incorrect and unjust.

It noted that you did not accept that you breached the Code, but did acknowledge the seriousness of the breaches that the panel have found proved. It also noted that you do not accept that you are liable to bring the profession into disrepute. The panel considered that your main reflection is to focus on the impact the referral has had on your personal interests, and not on how your conduct put patients at risk of harm. Furthermore, the panel had no evidence that you had reflected upon the impact of your failures on your colleagues, the Home, or the reputation of the nursing profession.

The panel was satisfied that the misconduct in this case is capable of being addressed. It noted that while remediating dishonesty is hard, it is not impossible. However, the panel considered that you have not demonstrated adequate insight or reflection into your misconduct. Therefore, the panel cannot with confidence conclude that you are highly unlikely to repeat the conduct. The panel noted your failure to adhere to the interim suspension order demonstrated an unwillingness to accept professional oversight over your practice, and accordingly has 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; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and

maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel accordingly determined that a finding of impairment on public interest grounds is required. In reaching its decision, the panel considered not only whether you continue to pose a risk to the public, but 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 circumstances. It considered that, in this case, a finding of non-impairment would fail to uphold professional standards of conduct.

In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds your fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, and the guidance, the panel considered that you are unable to practice safely and professionally, and was satisfied that your fitness to practise is currently impaired.

Application to adduce additional evidence

You made an application to call an additional witness, who was a senior member of staff at Manley Court Nursing Home, to attest to your professional conduct and good practice. The panel noted that a statement from this additional witness was already in evidence as a reference in your job application that was provided to Barchester. You clarified that the additional witness would provide further evidence of your competence as a nurse, but did not specify what that would be.

Ms Da Costa opposed the introduction of additional witness evidence at this late stage, noting that the panel's determination on facts, misconduct and impairment had already been handed down and sent to both parties. She reminded the panel that it already had sight of the witness's statement, which was a character reference. She noted that the reference explains how you have an unblemished career, an assertion that is not opposed by the NMC.

Noting that the panel was at the point of deciding on sanction rather than misconduct and impairment, Ms Da Costa questioned what could be added by the witness if they were called to give evidence at this late stage. She submitted that, if anything, it would be a mitigating factor but was not persuaded that it would assist the panel with regards to sanction.

The panel heard advice from the legal assessor that it would only be in exceptional circumstances that evidence could be adduced by either party after the fact-finding stage. However, he advised the panel that the panel may decide in fairness to the registrant that an exceptional course could be taken to allow the registrant to adduce further evidence. Alternatively, the panel may decide to adhere to the normal convention that no further evidence can be admitted at this stage.

The panel rejected your application to adduce evidence from the additional witness. In reaching its decision the panel considered that it has already had sight of the witness's statement, and that you have not provided sufficient information of what their oral evidence would add to the written reference. The panel was satisfied on the basis of the documentation contained within the hearing bundle that your competence as a nurse in previous employments has already been established.

Accordingly, the panel has determined not to allow your application to call the additional witness.

Sanction

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike you off the register. The effect of this order is that the NMC register will show that you have been struck off the register.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

Submissions on sanction

Ms Da Costa informed the panel that the NMC sanction bid is that of a striking off order. She submitted that this is an extremely serious case and set out what, in the NMC's submission, are the aggravating and mitigating features of this case:

- That you showed disregard for your Regulator by practising while subject to an interim suspension order.
- That you worked a number of shifts, 28 in total, while aware of the interim suspension order imposed on you by the NMC.
- That, despite having been present at a review of the interim suspension order when the suspension was continued, you continued to work a total of 13 shifts. She noted that you were legally represented at this event.
- That you demonstrated a pattern of misconduct over a period of time, that you failed to disclose suspension by your employer, and then failed to disclose suspension by NMC and then continued to work while subject to an interim suspension order.
- That you have shown a lack of insight and a lack of remediation, and also a lack of appreciation for how serious your misconduct was.
- That you were dishonest on at least two separate occasions, which appeared to be for personal and financial gain.

Ms Da Costa submitted that taking no action or issuing only a caution order would not be appropriate given the seriousness of this case.

Ms Da Costa submitted that a conditions of practice order would not address the concerns or reflect the seriousness of this matter.

Ms Da Costa submitted that a suspension order would also not be appropriate. She submitted that this was not a case that involved a single instance of misconduct, that there is evidence of harmful, deep seated personality and attitudinal problems, and that you have failed to show insight into your conduct.

Ms Da Costa submitted that there is also a clear picture that your dishonesty was for personal and financial gain. Ms Da Costa referred the panel to the NMC Guidance on serious concerns and submitted that such concerns are more difficult to put right. She submitted that this is a case where the registrant deliberately gave a false picture of her employment history, hiding clinical incidents in the past, and then practised in breach of a suspension order imposed to protect the public from concerns relating to those past clinical incidents.

Ms Da Costa submitted therefore that a striking-off order would be appropriate. She submitted that this case raised fundamental questions about your professionalism, honesty, and understanding of the Code. Therefore, a striking off order would be the only sanction sufficient to maintain professional standards.

You submitted that you practised as a registered nurse with no prior complaints for 20 years, and would like to continue to practise as a nurse. You reiterated for the panel that you are an honest person with no working issues, previous misconduct, and that you have good working relationships with your colleagues. This was also reflected in an email submission to the panel, received 5 December 2023, in which you stated:

'I am fit to practice and that I have no impairment. Moreover I have been practicing[sic] for a while, please they should considered [sic] my reputation I [sic] and [PRIVATE] [sic]. This is what I do my residents are happy am [sic] happy as well when I am working with them.'

Decision and reasons on sanction

Having found your 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:

- Your refusal to submit to regulation or professional oversight.
- You worked a total of 28 shifts as a nurse while subject to an interim suspension order.
- Despite having been present at a review when the interim suspension order was continued, you continued to work 13 shifts as a nurse.
- The misconduct forms a pattern of dishonesty that occurred over a significant period of time across multiple incidents.
- You have not shown meaningful insight, little remorse, and no material remediation into your misconduct.
- That your dishonesty was motivated by personal and financial gain.

The panel also took into account the following mitigating feature:

- You have submitted into evidence positive testimonials from your colleagues attesting to your professionalism.

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 your 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 your 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 your 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 could be readily addressed through retraining. Furthermore, the panel concluded that the placing of conditions on your 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; and
- 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. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by your actions is fundamentally incompatible with you remaining on the register. It considered that while a suspension order would protect the public for a short time, it would not meet the public interest. The panel was not convinced, based on the information before it, that a suspension for any length of time would lead to any material further development of remorse, insight or remediation by you.

Accordingly, 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?

Your actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with you remaining on the register. The panel considered that your misconduct amounted to serious longitudinal dishonesty over multiple incidents, and that this was motivated by personal and financial gain. It also considered that you have shown very little insight, remediation or remorse, and that the panel has seen no evidence that this is developing. The panel considered that breaching a suspension order by your Regulator is extremely serious.

The panel was of the view that the findings in this particular case demonstrate that your actions were serious and to allow you 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 determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of your actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct themselves, the panel has concluded that nothing short of this would be sufficient in this case. Anything less than a strike off order would not set the right precedent to the profession, nor would it declare and uphold proper professional standards of conduct.

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.

This will be confirmed to you in writing.

There was an immediate response from you after which you suddenly and voluntarily absented yourself from the hearing. The panel confirmed that it was content to proceed in your absence.

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 your own interests until the striking off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Submissions on interim order

The panel took account of the submissions made by Ms Da Costa, who invited the panel to impose an interim suspension order in order to cover the appeal period. She submitted that, in light of the panel's decision on sanction, an interim suspension order was necessary on the grounds of public protection and public interest.

Decision and reasons on interim order

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 concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months due to summarise panel's reasons.

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

That concludes this determination.