

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

**Substantive Hearing  
Wednesday 21 June - Tuesday 27 June 2023**

Virtual Hearing

**Name of Registrant:** Lesley Ann Medson

**NMC PIN** 89B0017S

**Part(s) of the register:** RN1, Registered Nurse- Adult (Level 1)  
(November 1992)

**Relevant Location:** East Ayrshire

**Type of case:** Misconduct

**Panel members:** Paul Grant (Chair, lay member)  
Mary Karasu (Registrant member)  
Esther Craddock (Registrant member)

**Legal Assessor:** James Holdsworth

**Hearings Coordinator:** Yewande Oluwalana

**Nursing and Midwifery Council:** Represented by Amy Hazlewood, Case  
Presenter

**Mrs Medson:** Not present and unrepresented at the hearing

**Facts proved:** Charges 1 and 2

**Facts not proved:** N/A

**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 Medson was not in attendance and that the Notice of Hearing letter had been sent to Mrs Medson's registered email address by secure email on 17 April 2023.

Ms Hazlewood, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

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, dates and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mrs Medson's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

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

The panel next considered whether it should proceed in the absence of Mrs Medson. It had regard to Rule 21 and heard the submissions of Ms Hazlewood who invited the panel to continue in the absence of Ms Medson. She referred the panel to Mrs Medson's email to the NMC dated 20 June 2023 in which she stated '*I will not be attending the virtual hearing*'. Ms Hazlewood submitted that Mrs Medson had voluntarily absented herself. No application for adjournment had been made by Mrs Medson and there is no reason to suppose that adjourning would secure her attendance at some future date.

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*' as referred to in the case of *R v Jones (Anthony William)* (No.2) [2002] UKHL 5.

The panel has decided to proceed in the absence of Mrs Medson. In reaching this decision, the panel considered the submissions of Ms Hazlewood, the representations from Mrs Medson, and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones* 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:

- No application for an adjournment has been made by Mrs Medson;
- Mrs Medson has informed the NMC in an email dated 20 June 2023 that she will not be attending the hearing.
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- One witness has attended today to give live evidence, others are due to attend;
- Not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- The charges relate to events that occurred in 2019;
- Further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mrs Medson in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her at her registered email

address, she has made no response to the allegations. She will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on her own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Mrs Medson's decision to absent herself from the hearing, waive her rights to attend, and/or be represented, and to not provide evidence or make submissions on her own behalf.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mrs Medson. The panel will draw no adverse inference from Mrs Medson's absence in its findings of fact.

### **Details of charge**

That you, a Registered Nurse:

1. On one or more occasions on 9 September 2019 took for yourself or another medication belonging to Ayrshire and Arran NHS Trust, which you were not entitled to take other than in the proper course of your employment by that Trust. **[PROVED]**
2. Your conduct at 1. above was dishonest in that you were appropriating for yourself or another medication other than in the proper course of your employment when you knew you were not entitled to do so. **[PROVED]**

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

## **Background**

On 14 July 2021, the NMC received a referral from NHS Ayrshire and Arran Trust (the Trust) in relation to Mrs Medson who had been employed by them as a Band 5 staff nurse.

It is alleged on 9 September 2019 a Nursing Auxiliary witnessed Mrs Medson putting strips of medication from the medicine trolley into her uniform pocket and either disposing of the empty box in a nearby bin or re-placing the empty box back into the medication trolley. Mrs Medson was approached by two senior staff members and she was found to have 28 tablets of Diazepam, three strips of Co-codamol tablets and 28 tablets of Zopiclone, contained in a box, in her uniform pocket. When asked why she had those medicines in her pocket, Mrs Medson said she had been in the process of restocking the medication trolley.

There is no evidence to suggest that Mrs Medson was under the influence of any substance whilst on duty on the 9 September 2019.

## **Decision and reasons on facts**

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 Hazlewood.

The panel has drawn no adverse inference from the non-attendance of Mrs Medson.

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: Clinical Nurse Manager at the Trust University Crosshouse Hospital at the time.
- Witness 2: Band 3 Nursing Auxiliary at the Trust University Crosshouse Hospital at the time.
- Witness 3: Clinical Nurse Manager- Emergency Care at the Trust University Crosshouse Hospital at the time.

During the course of witnesses 1 and 2's evidence amendments were made to their witness statements to reflect the correct information. For Witness 1 at paragraph 4 of their witness statement an amendment was made to the following date '*9 September 2020*' was changed to '*9 September 2019*' to accurately reflect the correct date of the incident. For Witness 3 an application was made by Ms Hazlewood for the following amendments to be made to paragraph 2 of their witness statement, where it reads '*I qualified as a Registered Nurse in 1985*' this was changed to read '*I qualified as a Mental [health] nurse in 1985 and became a Registered Nurse in 1987*'. Further changes were made to paragraphs 5, 6 and 11 where the year 2020 is mentioned it was changed to reflect the year 2019.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor who referred it to the case of *Ivey v Genting Casinos* [2017] UKSC 67 with regard to the test for dishonesty. It considered the witness and documentary evidence provided by the NMC.

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

### **Charge 1**

That you, a Registered Nurse:

1. On one or more occasions on 9 September 2019 took for yourself or another medication belonging to Ayrshire and Arran NHS Trust, which you were not entitled to take other than in the proper course of your employment by that Trust.

**This charge is found proved.**

In reaching this decision, the panel took account of Witness 2's statement at the time of the incident on 9 September 2019, the investigation report by Witness 3 which contained the interviews of Mrs Medson, Witness 1 and Witness 2 during the course of the investigation by the Trust. The panel also considered the '*Trust Code of Practice for medicines governance*' document which sets out the appropriate procedure when handling medicines. The panel considered the oral evidence by Witnesses 1, 2 and 3 where they confirmed that it was not customary practice for nurses to put medication in their pockets. The panel noted that during Witness 1's investigatory meeting he stated that all three drugs found in Mrs Medson's possession are prescription only and advised that they all have recreational potential.

The panel considered that during the live evidence from Witness 2, she said that she reported the incident immediately to a nurse on duty and shortly afterwards was told to produce a written statement. In that initial statement dated 9 September 2019, which was written on the same day at approximately 11:30am, she stated that she had witnessed Mrs Medson on more than one occasion putting medication in her pocket. The panel noted that Witness 2's evidence was largely consistent during the internal investigation as well as her live evidence before the panel. During questioning from the panel, Witness 2 stated that she did not see Mrs Medson being spoken to by a Consultant or any other person at the relevant time on that date. Witness 2 said when she spoke to Mrs Medson at the start of the shift on the 9 September 2019 that Mrs Medson appeared to be "*harassed and hyper*".

The panel noted that the only information from Mrs Medson was contained in the internal investigation conducted by Witness 3 on behalf of the Trust on 25 November 2019. It noted that 9 September 2019 was Mrs Medson's first full shift back at work after a phased return to work. Mrs Medson within the meeting stated:

*' [Witness 3] Clarify*

*Cocodamol*

*Diazepam*

*zopiclone*

*All in your pocket*

*In your words why were they in your pocket*

*LM            They were on top of the trolley and I was trying to restock the trolley and I was called to the ward round and I got flustered and I remember shutting the trolley and putting the drugs in my pocket.'*

The panel noted that Mrs Medson's version of the incident during the investigation meeting wholly differed to the account given by Witness 2 and was inconsistent with the normal practices when restocking and handling medication on the ward. It considered the oral evidence from Witnesses 1, 2 and 3 who stated that it was not normal practice for nurses to take out medication from boxes and put it in their uniform pocket. The panel noted Mrs Medson's acceptance that she put the medication in her pocket and she accepted that she should not have done so and could not give a reason for doing so other than being flustered.

The panel determined that the explanation given by Mrs Medson on 25 November 2019 was not plausible regarding her actions of taking the medication and putting it in her pocket and that it does not align with tidying the drugs trolley or restocking.



The panel found that the eyewitness account by Witness 2 was more plausible in what had happened and on the balance of probabilities found that it is more likely than not that you on one or more occasions on 9 September 2019 took for yourself or another medication belonging to Ayrshire and Arran NHS Trust, which you were not entitled to take other than in the proper course of your employment by that Trust.

Accordingly, the panel found this charge proved.

## **Charge 2**

2. Your conduct at 1. above was dishonest in that you were appropriating for yourself or another medication other than in the proper course of your employment when you knew you were not entitled to do so.

**This charge is found proved.**

In reaching this decision, the panel considered its previous decision for charge 1.

The panel moved on to the issue of whether Mrs Medson's intent in taking the medication was dishonest. It had regard to the test set out in *Ivey v Genting Casinos*:

- *What was the defendant's actual state of knowledge or belief as to the facts;*
- *Whether that belief was genuinely held; and*
- *Was the conduct dishonest by the standards of ordinary decent people?*

The panel is satisfied that Mrs Medson was dishonest in her actions. In reviewing the evidence, the panel preferred the evidence of Witness 2 who said that her initial statement dated 9 September 2019 was written on the same day and was approximately written around 11:30 am after she had witnessed Mrs Medson on more than one occasion putting medication in her pocket.

The panel found that the circumstances and background are such that when Mrs Medson was witnessed taking the medication from the drugs trolley, she was in view of Witness 2 who was setting up the breakfast trolley, in front of one of the ward rooms. Witness 2 stated that Mrs Medson discarded the medication box in a bin attached to the blood pressure machine and according to Witness 2 her conduct was designed to conceal the fact that she was taking the medication. Witness 2 said that Mrs Medson was behind the drugs trolley when she put the medication in her pocket. However, she was in full view of Witness 2 at the time.

The panel considered that Witness 2's evidence was largely consistent both during the internal investigation and her live evidence before the panel. The panel preferred the evidence of Witness 2 as it was more plausible than Mrs Medson's explanation of the incident on 25 November 2019 during the internal investigation by the Trust. It also considered Witness 1's account of finding the medication on Mrs Medson, when she was asked to empty her pockets on 9 September 2019.

The panel considered that Mrs Medson's conduct and behaviour in putting medication in her pocket when she ought not to, would be regarded as dishonest by the standards of ordinary decent people. The panel explored all alternative explanations that Mrs Medson's course of action might have been innocent, but no such explanation was credible.

In light of the above, the panel found Mrs Medson's actions were dishonest.

Accordingly, the panel found Charge 2 proved on the balance of probabilities.

### **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 Mrs Medson's 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 suitability to remain on the register unrestricted.

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, Mrs Medson's 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 Hazlewood 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 Hazlewood identified the specific paragraphs of the Code, 20, 20.1, 20.2, 20.3 and 20.4 and submitted that Mrs Medson's actions amounted to misconduct. Ms Hazlewood referred the panel to the cases of *Nandi v General Medical Council* [2004] EWHC 2317 (Admin) and *Johnson and Maggs v Nursing and Midwifery Council (No 2)*, [2013] EWHC 2140 (Admin). Ms Hazlewood submitted that Mrs Medson's actions of dishonesty falls short of the conduct expected of a registered nurse and unwittingly put patients at risk.

## Submissions on impairment

Ms Hazlewood 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 cases of *Cohen v GMC* [2007] EWHC 581 (Admin) and invited the panel to consider *Dame Janet Smith's Fifth Shipman Report endorsed in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Ms Hazlewood referred the panel to paragraph 76 of Mrs Justice Cox in the case of *CHRE v NMC and Grant*, where she 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.'*

Ms Hazlewood submitted there was a risk of repetition in this case as Mrs Medson's dishonest actions are hard to remediate and occurred during Mrs Medson's practice, which presents a risk to public protection. Ms Hazlewood invited the panel to make a finding of impairment. She drew the panel's attention to Mrs Medson's lack of engagement, lack of insight and the absence of any evidence of strengthened practice or remediation. She submitted that although Mrs Medson, during the local investigation, accepted that she took the medication, there was nothing before the panel today that showed Mrs Medson had looked at the allegations objectively to understand what had gone wrong and what she could have done differently in the circumstances.

Ms Hazlewood submitted that Mrs Medson's fitness to practise is impaired on the grounds of public protection and also otherwise in the wider public interest. She invited the panel to look at the relevant NMC fitness to practice guidance.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments.

### **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 Mrs Medson's actions did fall significantly short of the standards expected of a registered nurse, and that Mrs Medson's actions amounted to a breach of the Code. Specifically:

***'20 Uphold the reputation of your profession at all times***

*To achieve this, you must:*

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

*20.2 act with honesty and integrity at all times .....*

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

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that Mrs Medson's actions fell well below the standard expected of a registered nurse at work and amounted to theft, in that she took property belonging to the Trust that was meant for patients. The panel considered that dishonesty is fundamentally at odds with being a nursing professional. The panel decided that Mrs Medson's actions in both the charges did amount to serious misconduct.

The panel concluded that both an informed member of the public and a member of the nursing profession would find Mrs Medson's behaviour to be deplorable and damaging to the public's trust in nurses, and to undermine professional standards.

### **Decision and reasons on impairment**

The panel next went on to decide if as a result of the misconduct, Mrs Medson's fitness to practise is currently 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 the first limb of the test and found that there was no evidence of actual harm caused by Mrs Medson on 9 September 2019, however while there was a potential risk of harm to patients the panel concluded that it was a low risk as there was no evidence that any patient was deprived of their medication. Therefore, the panel did not find the first limb of the test engaged.

The panel found Mrs Medson's misconduct engages limb b) of Dame Janet Smith's test in that a member of the public would find her conduct deeply concerning and it has the potential to bring the profession into disrepute. Additionally, Mrs Medson's misconduct engages limbs c) and d) of Dame Janet Smith's test in that honesty is a fundamental tenet of the nursing profession and the panel has found that Mrs Medson has acted dishonestly.

The panel is aware that this is a forward-looking exercise and accordingly, it went on to consider whether Mrs Medson's misconduct was remediable and whether it had been remediated. The panel then considered the factors set out in the case of *Cohen v GMC* [2007] EWHC 581 (Admin).

The panel considered that acts of dishonesty are hard to remediate. The panel is of the view that Mrs Medson's actions were suggestive of an attitudinal problem.

Regarding insight, the panel considered Mrs Medson has limited insight into her actions on 9 September 2019, it considered that during the Trust's investigation on 25 November 2019 Mrs Medson acknowledged that what she did was wrong but has not provided any information on how she has remedied her actions. During her investigatory meeting on 25 November 2019 Mrs Medson stated, '*I know that it looks bad but it wasn't done with intent and I am guilty of being complacent if nothing else*'. Since that time Mrs Medson has provided no additional submissions or material and there was nothing before the panel today from Mrs Medson which demonstrated she understood the potential impact her actions could have on the nursing profession, colleagues and patients.

The panel considered whether Mrs Medson had strengthened her practice. There is nothing before the panel today that indicates Mrs Medson has made attempts to address her shortcomings and there has been no evidence of her undertaking a course or training and no written submissions or reflective account have been provided. It considered that Mrs Medson has had limited engagement with these proceedings and has not taken any proactive steps to show she has remediated her shortcomings and strengthened her



practice. The panel, therefore determined that Mrs Medson has not strengthened her practice since the time the incident happened on 9 September 2019.

In the panel's judgement there is a risk of repetition based on Mrs Medson's lack of insight, reflection and no real ownership of her actions when she was confronted on 9 September 2019 and during her investigatory meeting on 25 November 2019. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind 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 therefore also determined that public confidence in the profession would be undermined if a finding of impairment were not made in this case and also finds Mrs Medson's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Mrs Medson's fitness to practise is currently impaired.

## **Sanction**

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike Mrs Medson off the register. The effect of this order is that the NMC register will show that Mrs Medson has 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 Hazlewood informed the panel that in the Notice of Hearing, dated 17 April 2023, the NMC had advised Mrs Medson that it would seek the imposition of a striking-off order if the panel found Mrs Medson's fitness to practise to be currently impaired.

Ms Hazlewood submitted that the following aggravating features applied to this case:

- theft of medication;
- the conduct was linked to her practice;
- the incident took place on multiple occasions;
- dishonesty;
- consequential damage to the reputation of the profession and
- abuse of power.

Ms Hazlewood also highlighted a single mitigating feature in that the incidents took place on the same day.

Ms Hazlewood referred the panel to the SG and explained what the appropriate sanction for the case should be. She submitted that no order or a caution order would not be appropriate in this case as the misconduct was serious and involves dishonesty. It also would present a risk of harm to the public and not satisfy the public interest if an order is not put in place against Mrs Medson.

Ms Hazlewood further considered a conditions of practice order and submitted that this would be insufficient to protect the public and satisfy the public interest of this case, given the severity of the charges.

She further submitted that the only appropriate order would be a striking off-order as the charges were found proved and demonstrates the seriousness of the misconduct. Ms Hazlewood submitted that Mrs Medson deliberately breached the professional duty of candour by covering up when things had gone wrong especially if it could harm patients.

The case also involves misuse of power and the potential for financial gain from a breach of trust. Ms Hazlewood referred the panel to the case of *Parkinson v NMC* [2010] EWHC 1898 (Admin) where it makes clear that a nurse, midwife or nursing associate who is found to have acted dishonestly will always be at risk of being removed from the register.

### **Decision and reasons on sanction**

Having found Mrs Medson'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 took into account the following aggravating features:

- Theft of medication
- Misconduct linked to her practice as a nurse
- Abuse of a position of trust
- Lack of insight into failings
- Consequential damage to the reputation of the profession
- Misuse of position of power

The panel also took into account the following mitigating features:

- An isolated incident, involving two acts, that occurred within a short space of time on the same day
- A previously long and unblemished career

The panel considered Ms Hazlewood's submission regarding the aggravating factors that the incident happened on multiple occasions and disagreed that this was the case. It

found the incident was isolated, involving two acts, that occurred within a short space of time on the same day.

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 Mrs Medson'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 considered that Mrs Medson's 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 and the risk of repetition. 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 Mrs Medson's registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The misconduct identified in this case is dishonesty and it is not something that can be addressed through retraining, especially where Mrs Medson is not engaging with the process and has provided no information in how she has strengthened her practice or reflection on the incident. Furthermore, the panel concluded that the placing of conditions on Mrs Medson's registration would not adequately address the seriousness of this case and would not protect the public given the risk of repetition or satisfy the wider public interest.

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;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *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 Mrs Medson's action is fundamentally incompatible with Mrs Medson remaining on the register.

The panel considered that Mrs Medson since the investigatory meeting on 25 November 2019 has not responded to the charges in any meaningful way and it has been three and half years with no evidence of insight, submissions or reflection provided. The panel found a risk of repetition of Mrs Medson's misconduct, and the panel noted that she has indicated to the NMC that she no longer wants to practise as a nurse. Given the lack of insight and engagement the panel concluded that it is very unlikely that Mrs Medson will address her misconduct if a suspension order is imposed.

In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction to protect the public or address the public interest which is engaged.

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?*

Mrs Medson'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 was of the view that the findings in this particular case demonstrate that Mrs Medson's 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.

The panel balanced the aggravating and mitigating features, however, it found that the mitigation was very limited and was far outweighed by the aggravating features. 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 Mrs Medson'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 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 Mrs Medson in writing.

### **Application for an Interim order**

As the striking-off order cannot take effect until the end of the 28-day appeal period, Ms Hazlewood made an application on behalf of the NMC for the imposition of an 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 Mrs Medson's 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 Hazlewood. She submitted that the NMC is seeking the imposition of an interim suspension order for a period of 18 months to cover any appeal period until the substantive strike-off order takes effect.

Ms Hazlewood submitted that given the seriousness of the charges found proved and that it relates to dishonesty, an interim suspension order is necessary on the grounds of public protection and is also otherwise in the wider 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 risk of repetition of the misconduct.

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 in order to protect the public and the wider public interest to cover the 28-day appeal period and the duration of any appeal should Mrs Medson decide to appeal against the panel's decision.

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

That concludes this determination.