Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Thursday, 26 October 2023

Virtual Hearing

Name of Registrant:	Diana Mary Morris
NMC PIN	84G1470E
Part(s) of the register:	Registered Nurse: RN1 – June 2000 V300: Nurse independent / supplementary prescriber – June 2014
Relevant Location:	Gloucestershire
Type of case:	Misconduct
Panel members:	Mary Hattie (Chair, Registrant member) Jacqueline Metcalfe (Registrant member) Asmita Naik (Lay member)
Legal Assessor:	Ian Ashford-Thom
Hearings Coordinator:	Daisy Sims
Nursing and Midwifery Council:	Represented by Sally Denholm, Case Presenter
Ms Morris:	Not present and not represented at this hearing
Consensual Panel Determination:	Accepted
Facts proved:	All
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 Ms Morris was not in attendance and that the Notice of Hearing letter had been sent to Ms Morris' registered email address by secure email on 27 September 2023.

Further, the panel noted that the Notice of Hearing was also sent to Ms Morris' representative on 27 September 2023.

Ms Denholm, 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, date and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Ms Morris' 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 Ms Morris 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 Ms Morris

The panel next considered whether it should proceed in the absence of Ms Morris. It had regard to Rule 21 and heard the submissions of Ms Denholm who invited the panel to continue in the absence of Ms Morris. She submitted that Ms Morris had voluntarily absented herself.

Ms Denholm informed the panel that a provisional Consensual Panel Determination (CPD) agreement had been reached between the NMC and Ms Morris.

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 Ms Morris. In reaching this decision, the panel has considered the submissions of Ms Denholm, the representations made on Ms Morris' behalf in response to the Notice of Hearing, 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:

- Ms Morris has expressly agreed to the hearing proceeding in her absence;
- There is no reason to suppose that adjourning would secure her attendance at some future date; and
- There is a strong public interest in the expeditious disposal of the case.

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

Decision and reasons on application to amend the charge

Within the CPD document provided to the panel there was an agreed application to amend the charge which reads as follows (emphasis added):

2. *In accordance with Rule 28 of the NMC's Fitness to Practise Rules 2004 ("the Rules") the NMC apply to amend charge 7. The charge included in the notice of hearing is as follows:*

   Your conduct at charge 6 was dishonest in that you knew 29 patients were vaccinated on 11 February 2021

3. *The amended charge applied for is as follows:*

   Your conduct at charge 6 was dishonest in that you knew 29 patients were vaccinated on 11 February 2021 ***and attempted to conceal that 11 of those patients were not eligible.***

4. *The amendment more accurately reflects the conduct at charge 6. Ms Morris confirmed 29 patients vaccinated and thereafter confirmed with a handwritten list of only 18 patients who were vaccinated. The amendment does not materially change the nature of the conduct and explains the dishonest element. It is agreed between the parties that the proposed amendment does not cause any prejudice to Ms Morris.'*

The panel heard and accepted advice from the legal assessor.

The panel determined that the proposed amendment does not cause any prejudice to Ms Morris, nor does it materially change the nature of the conduct alleged. It therefore accepted the agreed application to amend charge 7.

Details of charge (as amended)

"That you, a registered nurse:

1) On 11 February 2021:

   a) administered a Covid-19 vaccination to Patient A

b) facilitated Colleague A to administer Covid-19 vaccinations at their home to one or more patients

c) contacted Colleague B to offer a Covid-19 vaccination to their son and husband at Colleague A's home

d) did not inform Dockham Surgery ("the Surgery") that you were aware of Colleague A administering unauthorised Covid-19 vaccinations to one or more patients.

2) Your conduct at 1 a and/or 1 b and/or 1c was dishonest in that you knew the patients were not eligible at the time to receive a Covid-19 vaccination.

3) Your conduct at 1 d was lacking in integrity in that you knew Colleague A was administering Covid-19 vaccinations to ineligible patients.

4) Between 11 February 2021 and 12 February 2021, accessed the following patient records to print patient labels:

a) Patient A

b) Patient E

c) Patient F

d) Patient G

e) Patient H

f) Patient I

g) Patient J

h) Patient M

i) Patient N

5) On 12 February 2021 sent a message to Colleague C “we managed 29 people yesterday” or words to that effect.

6) On or around 12 February 2021 provided Colleague C with a handwritten list of the patients vaccinated on 11 February 2021.

7) Your conduct at charge 6 was dishonest in that you knew 29 patients were vaccinated on 11 February 2021 and attempted to conceal that 11 of those patients were not eligible.

8) On 18 February 2021:

a. administered a Covid-19 vaccination to Patient B

b. did not have access to Patient B’s medical records

c. did not conduct a risk assessment prior to administering a Covid-19 vaccination to Patient B

d. did not submit a vaccination record for Patient B on Pinnacle.

e. did not notify Patient B’s registered practice of the administration of the Covid-19 vaccination.

9) Your conduct at 8a and/or 8b and/or 8c and/or 8d and/or 8e was:

a. dishonest in that you knew Patient B was not at the time eligible to receive a Covid-19 vaccination

b. lacking in integrity, in that you did not ensure Patient B was eligible at the time to receive a Covid-19 vaccination.

10) On 18 February 2021:

a. administered a Covid-19 vaccination to Patient C

b. did not have access to Patient C's medical records

c. did not conduct a risk assessment prior to administering a Covid-19 vaccination to Patient C

d. did not submit a vaccination record for Patient C on Pinnacle

e. did not notify Patient C's registered practice of the administration of the Covid-19 vaccination.

11) Your conduct at charge 10a and/or 10 b and/or 10c and/or 10d and/or 10e was:

a. dishonest in that you knew Patient C was not eligible at the time to receive a Covid-19 vaccination

b. lacking in integrity, in that you did not ensure that Patient C was eligible at the time to receive a Covid-19 vaccination.

12) On 18 February 2021 administered a second dose of Covid-19 vaccination to Patient D.

13) Your conduct at 12 was:

a. dishonest in that you knew Patient D was not eligible at the time to receive a Covid-19 vaccination

b. lacking in integrity, in that you did not ensure that Patient D was eligible at the time to receive a Covid-19 vaccination.

14) On 8 April 2021 administered a second dose of Covid-19 vaccination at Colleague A's home to:

a. Patient E

b. Patient F

15) Your conduct at charge 14 a and/or 14b was:

a. dishonest in that you knew the patients were not eligible for a Covid-19 vaccination

b. lacking in integrity, in that you did not ensure that the patients were eligible at the time to receive a Covid-19 vaccination.

16) did not record the administered dose of Covid-19 vaccination to Pinnacle for:

a. Patient E

b. Patient F

17) did not record the administered dose of Covid-19 vaccination to the Surgery for:

a. Patient E

b. Patient F

18) did not inform the Surgery the following patients presenting for a second dose prior to their eligibility

a. Patient D

b. Patient E

c. Patient F

19) Your conduct at 18a and/or 18b and/or 18c was dishonest in that you knew the patients were not eligible at the time for a Covid-19 vaccination.

20) On or around February 2021 when administering Covid-19 vaccinations did not: check patients' medical records prior to vaccinating one or more patient.

21) Did not inform the Surgery that you administered unauthorised Covid-19 vaccinations to one or more patients.

22) Did not inform the Surgery that there was vaccine left to be administered to the next eligible patient registered to the Surgery.

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

Consensual Panel Determination

At the outset of this hearing, Ms Denholm informed the panel that a provisional agreement of a Consensual Panel Determination (CPD) had been reached with regard to this case between the NMC and Ms Morris.

The agreement, which was put before the panel, sets out Ms Morris' 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 striking-off order.

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

That provisional CPD agreement reads as follows:

'The Nursing & Midwifery Council ("the NMC") and Mrs Diana Mary Morris ("Ms Morris"), PIN 84G1470E ("the Parties") agree as follows:

1. *Ms Morris is aware of the CPD hearing. Ms Morris does not intend on attending the hearing and is content for it to proceed in her and her representative's absence. Ms Morris and her representative will endeavour to be available by telephone should clarification on any point be required, or should the panel wish to make other amendments to the provisional agreement that are not agreed by Ms Morris.*

Application to amend the charge

2. *In accordance with Rule 28 of the NMC's Fitness to Practise Rules 2004 ("the Rules") the NMC apply to amend charge 7. The charge included in the notice of hearing is as follows:*

Your conduct at charge 6 was dishonest in that you knew 29 patients were vaccinated on 11 February 2021

3. *The amended charge applied for is as follows:*

Your conduct at charge 6 was dishonest in that you knew 29 patients were vaccinated on 11 February 2021 and attempted to conceal that 11 of those patients were not eligible.

4. *The amendment more accurately reflects the conduct at charge 6. Ms Morris confirmed 29 patients vaccinated and thereafter confirmed with a handwritten list of only 18 patients who were vaccinated. The amendment does not materially change the nature of the conduct and explains the dishonest element. It is agreed between the parties that the proposed amendment does not cause any prejudice to Ms Morris.*

The charge

5. *Ms Morris admits the following charges:*

"That you, a registered nurse:

1) On 11 February 2021:

a) administered a Covid-19 vaccination to Patient A

b) facilitated Colleague A to administer Covid-19 vaccinations at their home to one or more patients

c) *contacted Colleague B to offer a Covid-19 vaccination to their son and husband at Colleague A's home*

d) *did not inform Dockham Surgery ("the Surgery") that you were aware of Colleague A administering unauthorised Covid-19 vaccinations to one or more patients.*

2) Your conduct at 1 a and/or 1 b and/or 1c was dishonest in that you knew the patients were not eligible at the time to receive a Covid-19 vaccination.

3) Your conduct at 1 d was lacking in integrity in that you knew Colleague A was administering Covid-19 vaccinations to ineligible patients.

4) Between 11 February 2021 and 12 February 2021, accessed the following patient records to print patient labels:

a) *Patient A*

b) *Patient E*

c) *Patient F*

d) *Patient G*

e) *Patient H*

f) *Patient I*

g) *Patient J*

h) *Patient M*

i) Patient N

5) On 12 February 2021 sent a message to Colleague C "we managed 29 people yesterday" or words to that effect.

6) On or around 12 February 2021 provided Colleague C with a handwritten list of the patients vaccinated on 11 February 2021.

7) Your conduct at charge 6 was dishonest in that you knew 29 patients were vaccinated on 11 February 2021 and attempted to conceal that 11 of those patients were not eligible.

8) On 18 February 2021:

a. administered a Covid-19 vaccination to Patient B

b. did not have access to Patient B's medical records

c. did not conduct a risk assessment prior to administering a Covid-19 vaccination to Patient B

d. did not submit a vaccination record for Patient B on Pinnacle.

e. did not notify Patient B's registered practice of the administration of the Covid-19 vaccination.

9) Your conduct at 8a and/or 8b and/or 8c and/or 8d and/or 8e was:

a. dishonest in that you knew Patient B was not at the time eligible to receive a Covid-19 vaccination

b. lacking in integrity, in that you did not ensure Patient B was eligible at the time to receive a Covid-19 vaccination.

10) On 18 February 2021:

a. administered a Covid-19 vaccination to Patient C

b. did not have access to Patient C's medical records

c. did not conduct a risk assessment prior to administering a Covid-19 vaccination to Patient C

d. did not submit a vaccination record for Patient C on Pinnacle

e. did not notify Patient C's registered practice of the administration of the Covid-19 vaccination.

11) Your conduct at charge 10a and/or 10 b and/or 10c and/or 10d and/or 10e was:

a. dishonest in that you knew Patient C was not eligible at the time to receive a Covid-19 vaccination

b. lacking in integrity, in that you did not ensure that Patient C was eligible at the time to receive a Covid-19 vaccination.

12) On 18 February 2021 administered a second dose of Covid-19 vaccination to Patient D.

13) Your conduct at 12 was:

a. dishonest in that you knew Patient D was not eligible at the time to receive a Covid-19 vaccination

b. lacking in integrity, in that you did not ensure that Patient D was eligible at the time to receive a Covid-19 vaccination.

14) On 8 April 2021 administered a second dose of Covid-19 vaccination at Colleague A's home to:

a. Patient E

b. Patient F

15) Your conduct at charge 14 a and/or 14b was:

a. dishonest in that you knew the patients were not eligible for a Covid-19 vaccination

b. lacking in integrity, in that you did not ensure that the patients were eligible at the time to receive a Covid-19 vaccination.

16) did not record the administered dose of Covid-19 vaccination to Pinnacle for:

a. Patient E

b. Patient F

17) did not record the administered dose of Covid-19 vaccination to the Surgery for:

a. *Patient E*

b. *Patient F*

18) did not inform the Surgery the following patients presenting for a second dose prior to their eligibility

a. *Patient D*

b. *Patient E*

c. *Patient F*

19) Your conduct at 18a and/or 18b and/or 18c was dishonest in that you knew the patients were not eligible at the time for a Covid-19 vaccination.

20) On or around February 2021 when administering Covid-19 vaccinations did not: check patients' medical records prior to vaccinating one or more patient.

21) Did not inform the Surgery that you administered unauthorised Covid-19 vaccinations to one or more patients.

22) Did not inform the Surgery that there was vaccine left to be administered to the next eligible patient registered to the Surgery.

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

The facts

6. *Ms Morris appears on the register of nurses, midwives and nursing associates maintained by the NMC as an Adult Nurse and a Prescriber and has been on the NMC register since 1986 and 2014 respectively.*

7. *The NMC received a referral on 11 June 2021 from* […] *Deputy Director of Nursing & Quality, Gloucestershire Clinical Commissioning Group ("GCCG"). At the time of the alleged concerns in the referral, Ms Morris was working as lead practice nurse at Dockham Surgery ("the Surgery").*

8. *The agreed facts are as follows:*

9. *The Surgery first began vaccinating patients with the Covid-19 vaccine in February 2021. The vaccine was not provided at the Surgery itself but at a Covid-19 vaccination hub. The Surgery was only asked to give vaccines to housebound patients who were eligible for the vaccine but unable to attend the hub. Covid-19 vaccines were being administered in accordance with a Patient Group Direction ("PGD"). The Surgery provided vaccinations in accordance with national eligibility criteria issued by the Joint Committee on Vaccination and Immunisation.*

10. *In February 2021, the Surgery was administering Covid-19 vaccinations to patients of the Surgery who were eligible for the vaccine at the time. The criteria to be eligible for the vaccine was that a patient had to be housebound and fall within cohort 4: age 70 and over, people in nursing homes, the clinically vulnerable and frontline health and social care workers.*

11. *The list of housebound patients to be vaccinated would be generated at the Surgery each day. The clinician attending the patient would be expected to ask*

the patient a series of questions before administering the vaccine. These would include checking the patient's identity and eligibility for the vaccine, checking whether they had recently been infected with Covid-19, asking whether they had any allergies.

The facts relating to Charge 1

12. *On 11 February 2021 Ms Morris vaccinated Patient A. Patient A's consent form was signed by Ms Morris and dated 11 February 2021, confirming it was administered at home. Patient A was not eligible to receive a Covid-19 vaccination under the cohort at the time.*

13. *On 11 February 2021 Ms Morris assisted healthcare assistant Colleague A, in administering Covid-19 vaccines to 11 ineligible patients after normal practice hours. Ms Morris contacted patients by telephone in the afternoon to ask them if they would like to receive the Covid-19 vaccine that evening. Some of these people were not patients of the Practice but were family members or friends of staff at the Practice. Ms Morris arranged for those people to attend Colleague A's house to receive the vaccine. Ms Morris was not present when the vaccines were administered.*

14. *Colleague B, an employee of the Surgery was contacted by Ms Morris on 11 February 2021 to ask if her husband and son (Patient G) would like to receive the vaccine. Ms Morris told Colleague B that these were left over and would be thrown away if they were not used. Colleague B texted Ms Morris to ask if this was ok and to check they wouldn't get into trouble. Ms Morris told Colleague B that they should go to Colleague A's house at 5.30 that evening. During the local investigation Ms Morris said that she thought they were allowed to do this with leftover vaccine.*

15. *Ms Morris did not disclose that she facilitated the administration of vaccinations by Colleague A. The Surgery became aware following an anonymous letter to the Surgery in relation to Colleague A. During the investigation into Colleague A,*

it was discovered that Ms Morris was involved in facilitating the vaccinations. Ms Morris was aware of Colleague A's actions and did not inform the Surgery that she was aware.

The facts relating to Charge 2

16. *Patient A was not on the list of eligible patients, created by the Surgery, to receive the vaccination.*

17. *Colleague B's son (Patient G) and husband were not eligible to receive the vaccination. Ms Morris accepts that she contacted Colleague B to offer left over vaccines. Ms Morris knew that the patients receiving the vaccination were not eligible.*

The facts relating to Charge 3

18. *Ms Morris accepts that her conduct was lacking in integrity. Colleague A was not qualified to administer vaccinations. Ms Morris underwent training as the lead nurse and was aware that Colleague A was not able to administer vaccinations. The conduct was lacking in integrity as Ms Morris ought to have notified the Surgery that Colleague A was administering vaccinations to ineligible patients.*

The facts relating to Charge 4

19. *Ms Morris accessed patient records from the Surgery on 11 February 2021 and 12 February 2021. Ms Morris accessed Patient A, H and J's records on 11 February and records belonging to Patient I, G, F, A and E on 12 February 2021. Ms Morris printed patient labels to attach to the Covid-19 consent forms. Ms Morris did not have access to the records at the time of the vaccine being administered and accessed these records after the event to complete the consent forms. This placed those patients at risk as there was no medical information available prior to administering the vaccine.*

The facts relating to Charge 5

20. *An instant message was sent to Colleague C from Ms Morris. The content of that message is as follows:*

    "Good morning [Colleague C], we managed 29 people yesterday we still have a few stragglers so will be going out again next Thursday pm from 3pm will try and complete there really shouldn't be anybody else after that we have [PRIVATE] 2 cinders place and one littledean [PRIVATE] and a couple scattered in town we will need to ensure we plan the rotas for the 2nd lot when we get to it."

The facts relating to Charge 6

21. *Ms Morris gave Colleague C a handwritten list of patients who she vaccinated on 11 February 2021. The list records 18 patients.*

The facts relating to Charge 7

22. *Ms Morris confirmed with Colleague C by instant message that she had vaccinated 29 people on 11 February 2021. The handwritten list contained only 18 patients. Ms Morris was dishonest in that she knew that she had confirmed 29 patients. Ms Morris tried to conceal that the vaccination had been administered to 11 patients who were ineligible.*

The facts relating to Charges 8 and 9

23. *On 18 February 2021, Ms Morris administered a Covid-19 vaccination to Patient B at Colleague A's home.*

24. *Patient B was not a patient with the Surgery. Patient B was registered with Forest Health Care. The practice manager from Forest Health Care contacted the Surgery to say that Forest Health Care invited Patient B to attend for their second dose of their Covid vaccine, but had been told by Patient B that they had already received their second dose. Forest Health Care had no evidence or paperwork that Patient B had received their second dose. Patient B confirmed that they received their vaccine from Ms Morris.*

25. *Ms Morris did not have access to Patient B's medical records from Forest Health Care and as such was unable to conduct a risk assessment prior to administering the vaccination. Ms Morris would not have been able to check for contraindications or allergies.*

26. *Ms Morris was required to submit a vaccination record for all patients who she administered the Covid-19 vaccine to onto a programme named Pinnacle. No record of Patient B's vaccination was submitted. Forest Health Care did not receive notification of the administration of the vaccine.*

27. *Ms Morris knew that Patient B was not eligible at the time to receive a Covid-19 vaccination. Patient B is related to a staff member employed at the Surgery.*

28. *Ms Morris' conduct lacked integrity as she did not ensure Patient B was eligible at the time. Neither the Surgery nor Forest Health Care received notification, or a vaccination record of the vaccine administration.*

The facts relating to Charges 10 and 11

29. *Patient C is Ms Morris' husband who was registered at Forest Health Care and not the Surgery. The practice manager also contacted the Surgery in relation to Patient C to confirm they had invited Patient C to attend for their second dose of a Covid-19 vaccination. Ms Morris did not have access to Patient C's medical records and was unable to conduct a risk assessment prior to administering the vaccination. Ms Morris did not submit a vaccination record for Patient C onto the programme Pinnacle and did not notify Forest Health Care nor the Surgery that Patient C had received a Covid-19 vaccination.*

30. *Ms Morris knew that Patient C was not eligible and was not registered with the Surgery. Neither the Surgery nor Forest Health Care received notification or a vaccination record of the vaccine administration.*

The facts relating to Charge 12 and 13

31. *Patient D is husband to Colleague A. On 18 February 2021 Ms Morris administered Patient D's second dose of the vaccination. Patient D's consent form is signed by Ms Morris confirming that this was administered at home. At the time of the administration Patient D was not eligible to receive the vaccine.*

32. *Ms Morris knew that Patient D was not eligible to receive a second dose of the vaccine. The Surgery's records show that Patient D received his first vaccine on 19 January 2021. In February 2021 the JCVI guidance said that first doses of the vaccine should be prioritised and that there should be a gap of 12 weeks between the first and second vaccine. Ms Morris knew that Patient D was not eligible for the second dose of the vaccine. Ms Morris did not ensure that Patient D was eligible when administering the vaccination.*

The facts relating to Charges 14, 15, 16, 17, 18 and 19.

33. *In finding dishonesty the test laid down by the Supreme Court in Ivey v Genting Casinos (UK) Ltd [2017] UKSC 67 applies:*

'When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.'

34. *Ms Morris administered a second dose of the Covid-19 vaccine to Patients E and F on 8 April 2021 at Colleague A's home address. Neither patient was eligible for the vaccine. Ms Morris knew that Patients E and F were ineligible to receive the vaccination but proceeded with the administration. Ms Morris did not*

record the vaccination of Patients E and F on Pinnacle. Ms Morris did not record the vaccinations with the Surgery.

35. *Ms Morris administered the vaccine to Patients D, E and F knowing that they were not eligible to receive the vaccination at the time. Ms Morris did not inform the Surgery that the patients presented themselves for a second dose prior to them becoming eligible.*

The facts relating to Charges 20, 21 and 22

36. *Ms Morris failed to consult patients' medical records prior to administering Covid-19 vaccines and did not inform the Surgery that she had administered unauthorised Covid-19 vaccinations to one or more patients. By providing unauthorised vaccinations Ms Morris did not notify the Surgery that there was vaccine left to be administered to the next eligible patient registered to the Surgery.*

37. *On 21 July 2023 Ms Morris admitted the regulatory concerns against her and current impairment in her Application for removal by agreement from the NMC register, however this application was refused. On 18 August 2023 Ms Morris's representative informed the NMC of their agreement to resolve the case by way of CPD.*

Misconduct

38. *It is agreed that the conduct as particularised in the admitted charges amounts to misconduct.*

39. *The comments of* ***Lord Clyde in Roylance v General Medical Council [1999] UKPC 16*** *may provide some assistance when considering what could amount to misconduct:*

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

40. *Further assistance may be found in the comments of* ***Jackson J in Calhaem v GMC [2007] EWHC 2606 (Admin)*** *and* ***Collins J in Nandi v General Medical Council [2004] EWHC 2317 (Admin)****:*

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

and

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

41. *The Parties agree that Ms Morris's misconduct is serious and falls far short of what is expected of a registered nurse. The misconduct is a serious departure from expected standards and risks causing harm to the public and bringing the nursing profession into disrepute. Nurses occupy a position of privilege and trust in society and are expected at all times to be professional.*

At the relevant time, Ms Morris was subject to the provisions of ***The Code: Professional standards of practice and behaviour for nurses and midwives (2015)*** *("the Code"). The Parties agree that the following provisions of the Code have been breached in this case;*

3. Make sure that people's physical, social and psychological needs are assessed and responded to

To achieve this, you must:

3.1 *pay special attention to promoting wellbeing, preventing ill health and meeting the changing health and care needs of people during all life stages.*

5 Respect people's right to privacy and confidentiality

As a nurse, midwife or nursing associate, you owe a duty of confidentiality to all those who are receiving care. This includes making sure that they are informed about their care and that information about them is shared appropriately.

To achieve this, you must:

5.1 *respect a person's right to privacy in all aspects of their care.*

6 Always practise in line with the best available evidence

To achieve this, you must:

6.1 *make sure that any information or advice given is evidence-based including information relating to using any health and care products or services.*

10 Keep clear and accurate records relevant to your practice

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

To achieve this, you must:

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

***10.5** take all steps to make sure that records are kept securely.*

***10.6** collect, treat and store all data and research findings appropriately.*

Preserve safety

You make sure that patient and public safety is not affected. You work within the limits of your competence, exercising your professional 'duty of candour' and raising concerns immediately whenever you come across situations that put patients or public safety at risk. You take necessary action to deal with any concerns where appropriate.

13 Recognise and work within the limits of your competence

To achieve this, you must, as appropriate:

***13.2** make a timely referral to another practitioner when any action, care or treatment is required.*

***13.4** take account of your own personal safety as well as the safety of people in your care.*

14 Be open and candid with all service users about all aspects of care and treatment, including when any mistakes or harm have taken place

14.3 document all these events formally and take further action (escalate) if appropriate so they can be dealt with quickly.

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

To achieve this, you must:

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

18 Advise on, prescribe, supply, dispense or administer medicines within the limits of your training and competence, the law, our guidance and other relevant policies, guidance and regulations.

To achieve this, you must:

18.1 *prescribe, advise on, or provide medicines or treatment, including repeat prescriptions (only if you are suitably qualified) if you have enough knowledge of that person's health and are satisfied that the medicines or treatment serve that person's health needs.*

18.3 *make sure that the care or treatment you advise on, prescribe, supply, dispense or administer for each person is compatible with any other care or*

treatment they are receiving, including (where possible) over-the-counter medicines.

18.5 *wherever possible, avoid prescribing for yourself or for anyone with whom you have a close personal relationship.*

19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice

To achieve this, you must:

19.1 *take measures to reduce as far as possible, the likelihood of mistakes, near misses, harm and the effect of harm if it takes place.*

19.3 *keep to and promote recommended practice in relation to controlling and preventing infection.*

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.*

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

42. *Ms Morris facilitated Colleague A to administer Covid-19 vaccine and administered the vaccine herself to eleven patients who were family and friends of Ms Morris's colleagues, and who were not eligible for the Covid-19 vaccination at the time. Ms Morris's actions were in breach of the rules for administering Covid-19 vaccine which were in force. In addition, by administering Covid-19 vaccine without preliminary checks of patients' medical records, carrying out patients' risk assessments and failing to record administration of Covid-19 vaccine and to report the vaccinations to patients' registered practices Ms Morris put 17 patients at the risk of harm. Moreover as a result of such vaccinations the Surgery's patients who were eligible for Covid-19 vaccination at that time were at risk of not receiving their Covid-19 vaccines on time and therefore were also put at risk of harm by Ms Morris's actions.*

43. *In addition to the above, Ms Morris in her role as a lead practice nurse was a senior member of staff. As such, she was responsible for adhering to the rules of administering Covid-19 vaccines and providing professional guidance and support to the staff and patients in the Surgery's care. Ms Morris had a significant amount of trust placed on her which she breached.*

44. *At the time, the Covid-19 vaccine being administered was "Oxford AstraZenaca". Patient G was not eligible due to them not being housebound and not within cohort 4. The Oxford AstraZenaca vaccine was high risk to administer to Patient G due to their age and they should not have been given this type of vaccine due to health risks. Had Patient G been vaccinated when their cohort was eligible, this information would have been available, and they would not have been exposed to the risk of receiving a vaccine which was potentially dangerous for them.*

45. *Ms Morris maintained poor record keeping in regard to a number of patients she was vaccinating. A number of patients failed to have their vaccines documented and so were unable to obtain "Covid Passports" as they were unable to prove they had received the required amount of vaccines.*

46. *There is an expectation that nurses act with honesty and integrity. Ms Morris failed to act with honesty and integrity by administering Covid-19 vaccine to ineligible patients of which she was aware, administering the vaccine to her colleagues' friends and relatives, failing to record such administration of vaccine, to check patients' medical records and to carry out risk assessments prior to Covid-19 vaccine administration. Ms Morris breached the trust that was placed in her, which is particularly serious given the senior position she held. Additionally, administering Covid-19 vaccine that was intended for eligible patients could place the eligible patients who might have been denied the vaccine at risk of harm. These alleged failings are likely to cause risk to patients in the future if they are not addressed.*

47. *It is acknowledged that not every breach of the Code will result in a finding of misconduct. However, Ms Morris accepts that the failings set out above are a serious departure from the professional standards and behaviour expected of a registered nurse. Ms Morris acknowledges that her conduct presented a risk of harm to patients.*

Impairment

48. *The Parties agree that Ms Morris's fitness to practise is currently impaired by reason of her misconduct.*

49. *Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. It is therefore imperative that nurses make sure that*

their conduct at all times justifies both their patients' and the public's trust in them and in their profession. A nurse must be able to practise kindly, safely and professionally.

50. *In addressing impairment, the Parties have considered the factors* ***outlined by Dame Janet Smith in the Fifth Shipman Report and approved by Cox J in the case of CHRE v Grant & NMC [2011] EWHC 927 (Admin)*** *("Grant"). A summary is set out in the case at paragraph 76 in the following terms:*

"Do our findings of fact in respect of the [nurse'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 [nursing] 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 [nursing] profession; and/or*
d. *has in the past acted dishonestly and/or is liable to act dishonestly in the future."*

51. *The panel should also consider the comments of Cox J in Grant at paragraph 101:*

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

52. *The Parties agree that all four limbs as identified in the above case, are engaged. Dealing with each limb in turn:*

Has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm

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

54. *The Order states:*

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

(a) to protect, promote and maintain the health, safety and well-being of the public;

(b) to promote and maintain public confidence in the professions regulated under this Order; and

(c) to promote and maintain proper professional standards and conduct for members of those professions.

55. *The case of Grant makes it clear that the public protection must be considered paramount and Cox J stated at para 71:*

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

56. *Whilst there is no evidence that Ms Morris's actions actually caused harm to patients, she put the patients at unwarranted risk of harm. Administering Covid-19 vaccine to ineligible patients meant that there was a risk of there not being enough vaccine for eligible patients. Her failure to review patient records before administration, or record on their records that they'd received the vaccine, put them at risk of harm from adverse reactions.*

57. *Furthermore, this was a serious incident which could have caused harm to the patients for whom Ms Morris facilitated administration of Covid-19 vaccine or administered it herself in Colleague A's home. Patients D and G were particularly at the risk of harm. As a result of Ms Morris's actions Patient D received the second Covid-19 vaccine against the national guidance as it was administered only after a four weeks' gap from Patient D's first vaccine rather than the required 12 weeks' gap between the two doses. The Oxford AstraZenaca vaccine was high risk to administer to Patient G due to their age and they should not have been given this type of vaccine due to health risks. Therefore administering Covid-19 vaccine to ineligible patients and against the guidance in force at the time could have serious implications for patients.*

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

58. *Registered professionals occupy a position of trust in society to be responsible for the care of residents or patients. Ms Morris was offering Covid-19 vaccine she obtained from her work place to her colleagues' families and friends who were not eligible for such vaccination. Ms Morris did not inform her work place that there was Covid-19 vaccine left to be administered to the next eligible patient and she did not inform her work place that she had administered unauthorised Covid-19 vaccinations to one or more patients. Ms Morris knew that the patients she was offering Covid-19 vaccination were not eligible for it. After the patients received*

Covid-19 vaccinations Ms Morris did not inform practices they were registered to. Ms Morris accessed patient records of nine patients to print patient labels after the vaccination was administered to those patients to complete the vaccine consent forms. Ms Morris failed to check patient records prior to administering Covid-19 vaccination to patients and she failed to record administered Covid-19 vaccinations in patients' records. All of this directly constitutes a breach of the trust placed in Ms Morris as a registered professional.

59. *The Parties agree that such behaviour not only brought Ms Morris's reputation into disrepute, but also that of the wider profession. This in turn undermined the public's confidence in the profession as a whole.*

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

60. *The Code divides its guidance for nurses into four categories which can be considered as representative of the fundamental principles of nursing care. These are:*

    a) *Prioritise people;*
    b) *Practise effectively;*
    c) *Preserve safety and*
    d) *Promote professionalism and trust*

61. *The Parties have set out above, how, by identifying the relevant sections of the Code, Ms Morris has breached fundamental tenets of the profession. These sections of the Code define, in particular, the responsibility to promote professionalism and trust.*

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

62. *Ms Morris acted dishonestly in that she knew that a number of patients she was offering Covid-19 vaccine from the Surgery were not eligible for such vaccination, but she deliberately did so anyway. Furthermore, Ms Morris acted dishonestly in that she knew but did not inform the Surgery that there was Covid-19 vaccine left for next available patient, and that she knew but did not inform the practices the above patients were registered to that Covid-19 vaccination had been administered to them. Ms Morris sought to conceal her conduct*

Remediation, reflection, training, insight, remorse

63. *NMC guidance adopts the approach of* ***Silber J in the case of R (on application of Cohen) v General Medical Council [2008] EWHC 581 (Admin)*** *by asking the questions whether the concern is easily remediable, whether it has in fact been remedied and whether it is highly unlikely to be repeated.*

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

65. *In her email to the NMC on 26 January 2022 Ms Morris stated:*

"I have learnt from all of this is never to put so much trust in a colleague to this day I deeply regret not going back to the hub with [Colleague A] to return the remaining full vial of covid vaccination but I had no reason to doubt her, and I would like to say at no point did I falsify and patient documents all paperwork was returned to the hub as requested. I worked so hard throughout the pandemic going to do home visits and see patients within the surgery too there was no let up and little support it was mentally draining […]. I have an impeccable record prior to this and have always prided myself on being an excellent nurse with a very caring and

compassionate nature, and would certainly never knowingly put any patent at risk, I now feel ruined have lost everything my home my job my reputation and am now also struggling mentally for which I now have prescribed medication from my GP. I currently am not working and haven't done so since I would like to return to some form of caring work in the future if at all possible as I have always loved working and caring for people.".

66. *Ms Morris provided a response to the Case Examiners received by the NMC on 13 December 2022 strongly denying the regulatory concerns. Ms Morris stated that she was under massive pressure to vaccinate as many people as possible, and if there was any surplus vaccine she would try and use this up to avoid waste. Ms Morris provided news articles at the time that related to not wasting vaccine. Ms Morris indicated that the use of smart cards in the office were lax and suggested that Colleague A had used her card to access patient records to cover her tracks.*

67. *Additionally, Ms Morris has provided NMC with the following response to charges on to the Case Management Form dated 6 June 2023:*

"D. Morris's role WAS to visit patients at home and administer vaccine.

If a vaccine was spare and was going to be disposed of then rather than waste it I tried very quickly to find someone to take it. The charges against me are indicating I should have binned the spare vaccine rather than use it up and save lives."

68. *The Parties agree that the nature and extent of the concerns could be indicative of an underlying attitudinal concern which is difficult to remediate. It is also agreed that dishonesty is often said to be attitudinal in nature and difficult to remediate. Furthermore, Ms Morris in her responses does not fully address her misconduct and she does not consider the impact of her actions more widely.*

There is also a lack of appreciation that spare vaccines could have been given to the next eligible patient and Ms Morris's insight remains wanting, especially in relation to the risks in administering Covid-19 vaccine to ineligible patients. Ms Morris is currently subject to interim suspension order and is therefore has not been able to demonstrate strengthened practice.

69. *The parties agree that Ms Morris's insight is limited and requires further development. The parties also agree that the concerns in this case have not been remedied and as such it cannot be said that it is highly unlikely that the conduct will be repeated.*

Public protection impairment

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

Public interest impairment

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

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

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

74. In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current

role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.

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

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

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

75. The parties agree that Ms Morris's fitness to practise is impaired on public protection and public interest grounds.

Sanction

76. In accordance with the Order, the overarching objective of the NMC is the protection of the public.

77. Whilst sanction is a matter for the panel's independent professional judgement, the parties agree that a striking-off order is the most appropriate and proportionate sanction.

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

79. The aggravating features of this case have been identified as follows:

a) Dishonesty
b) Breach of trust
c) Potential to cause serious harm to patients
d) Not an isolated incident
e) Limited insight

80. There are no mitigating features of this case that have been identified.

81. Considering each sanction in turn starting with the least restrictive:

*82. **Taking no action-** The NMC's guidance (SAN-3a) states that it will be rare to take no action where there is a finding of current impairment and this is not one*

of those rare cases. The seriousness of the misconduct means that taking no action would not be appropriate in view of the public protection issues identified. Such a sanction would not mark the seriousness of the relevant conduct and would be insufficient to maintain public confidence in the profession and maintain professional standards.

83. ***Caution order*** *- The NMC's guidance (SAN-3b). A caution order would also not be in the public interest nor mark the seriousness and would be insufficient to maintain high standards within the profession or the trust the public place in the profession.*

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

- *no evidence of harmful deep-seated personality or attitudinal problems*
- *identifiable areas of the nurse, midwife or nursing associate's practice in need of assessment and/or retraining*
- *no evidence of general incompetence*
- *potential and willingness to respond positively to retraining*
- *the nurse, midwife or nursing associate has insight into any health problems and is prepared to agree to abide by conditions on medical condition, treatment and supervision*
- *patients will not be put in danger either directly or indirectly as a result of the conditions*
- *the conditions will protect patients during the period they are in force*
- *conditions can be created that can be monitored and assessed.*

85. *The misconduct and the concerns behind the misconduct are indicative of harmful, deep- seated, personality or attitudinal concerns. The fact that some of the allegations relate to dishonesty seriously aggravates the situation.*

Furthermore, it would not be possible to formulate workable conditions to meet the risks in this case. Conditions are particularly difficult to formulate in cases which involve dishonesty. Therefore, a conditions of practice order would not reflect the seriousness of the concerns raised or maintain public confidence.

86. ***Suspension Order*** *– The Parties consider that a suspension order is not appropriate and proportionate. The law about healthcare regulation makes it clear that a nurse who has acted dishonestly will always be at risk being removed from the register. However the Guidance (at FTP-SAN-2) also states;*

"Nurses, midwives and nursing associates who behaved dishonestly can engage with the Fitness to Practise Committee to show that they feel remorse, that they realise they acted in a dishonest way, and tell the panel that it will not happen again. They can do this in person, through anyone representing them, or by sending information they want the Committee to consider. If they do this, they may be able to reduce the risk that they will be removed from the register."

87. *Ms Morris has fully engaged with the NMC process but she has admitted the allegations at the latest stage. Ms Morris has produced only limited insight but has not acknowledged her actions were wrong and she has not expressed remorse.*

88. *Both a suspension order and a striking-off order require the misconduct to be so serious that a removal from the register is justified. The difference is whether that removal is temporary or permanent. There is no doubt that the serious nature of the misconduct, which includes dishonesty, means that a removal from the register is the only sanction sufficient to mark the seriousness.*

89. *The Guidance reflects that the main difference between the appropriateness of a suspension order and a striking-off order involves an assessment of whether*

Ms Morris's misconduct is fundamentally incompatible with her continued presence on the register. Her continued dishonest conduct involved a number of patients who were put at risk of harm. Further, Ms Morris has not demonstrated an appropriate level of insight indicating that a permanent removal is warranted.

90. ***Striking-Off Order*** *- The alleged conduct took place at the height of the pandemic when people were in lockdown. The people eligible for Covid-19 vaccinations were over 70 and those working on the front line. By assisting Colleague A and administering vaccines herself to ineligible people, Ms Morris deprived those that were eligible and those that were at the most risk. This conduct did not take place on one occasion, it was repeated. The Surgery was clear that if there were any vaccine doses left they went to the next person on the list of eligibility.*

91. *Removal of Ms Morris from the register would sufficiently protect the public and the public interest. The misconduct is so serious that a registered professional would consider this conduct deplorable and therefore not compatible with remaining on the register. Therefore, the Parties agree that a striking-off order is proportionate in the circumstances for the reasons set out above.*

Interim order

92. *An interim order is required in this case. The interim order is necessary for the protection of the public and otherwise in the public interest for the reasons given above. The interim order should be for a period of 18 months in the event panel's decision is appealed. The interim order should take the form of an interim suspension order.*

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

Signed …….. *Dated ……*

[Mrs Diana Mary Morris]

Signed ……

Dated……

(For and on behalf of the NMC)'

Here ends the provisional CPD agreement between the NMC and Ms Morris. The provisional CPD agreement was not signed by Ms Morris, however the panel had sight of correspondence from Ms Morris' representative confirming acceptance and detailing the difficulties in providing an electronic signature.

Decision and reasons on the CPD

The panel decided to accept the CPD.

The panel heard and accepted the legal assessor's advice. Ms Denholm 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 Ms Morris. Further,

the panel should consider whether the provisional CPD agreement would be in the public interest. This means that the outcome must ensure an appropriate level of public protection, maintain public confidence in the professions and the regulatory body, and declare and uphold proper standards of conduct and behaviour.

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

Decision and reasons on misconduct and impairment

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

In respect of misconduct, the panel endorsed paragraphs 38 to 47 of the provisional CPD agreement in respect of misconduct. The panel recognised the wider context of the COVID-19 pandemic, specifically the vaccination roll out within the UK and instances of left over vaccines being used for vaccination outside the eligibility criteria and priority order in order to avoid wastage. However, the panel also noted the evidence before it of Ms Morris' working environment. It noted that at Ms Morris' specific practice, there was a clear requirement that any surplus vaccinations were to be offered to the next eligible patient and therefore Ms Morris' actions were in clear breach of this. The panel determined the clinical risks to those receiving the vaccinations was high as Ms Morris inappropriately facilitating the administration of vaccinations by a nursing assistant without safety precautions in the nursing assistant's home. The panel further noted Ms Morris' dishonesty in her attempts to conceal the use of the vaccines, namely that she did not report a surplus to the practice management and further submitted a handwritten list of 18 patients omitting the 11 who were not eligible for vaccination in accordance with charge 6.

The panel therefore determined that the facts found proved are a serious and repeated departure from the standards expected of a registered nurse and amount to misconduct.

The panel then considered whether Ms Morris' fitness to practise is currently impaired by reason of misconduct. The panel determined that Ms Morris' fitness to practise is currently impaired on the grounds of public protection and is otherwise in the public interest. In this respect the panel endorsed paragraphs 48 to 75 of the provisional CPD agreement.

Decision and reasons on sanction

Having found Ms Morris' 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:

- Dishonesty
- Breach of trust
- Potential to cause serious harm to patients
- Not an isolated incident
- Limited insight.
- No evidence of remorse.

The panel also took into account that no mitigating features were listed in the CPD, although the panel did acknowledge the challenging wider context of the vaccine roll out in which these incidents occurred during the COVID-19 pandemic.

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 Ms Morris' 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 Ms Morris' 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 Ms Morris' registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The misconduct identified in this case was not something that can be addressed through retraining as this involved dishonesty. Furthermore, the panel concluded that the placing of conditions on Ms Morris' registration would not adequately address the seriousness of this case and would not protect the public.

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

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*

- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The conduct, as highlighted by the facts found proved, was a significant and repeated 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 Ms Morris' actions is fundamentally incompatible with Ms Morris remaining on the register. Furthermore, Ms Morris had not demonstrated sufficient insight, strengthening of practice and remorse through her engagement with the fitness to practice process whereby suspension could be considered as an appropriate sanction despite the severity of the breach.

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?*

Ms Morris' 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 Ms Morris' actions were very 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 risks posed to patients and the effect of Ms Morris' actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct herself by offering vaccines in short supply to family and friends instead of following eligibility requirements, the panel has concluded that nothing short of a striking-off order 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 Ms Morris in writing.

Decision and reasons on interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Ms Morris' own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel agreed with the CPD that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the

panel’s determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months.

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

That concludes this determination.