

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

**Substantive Meeting
Tuesday, 30 April 2024**

Virtual Meeting

Name of Registrant: **Matthew Pover**

NMC PIN 14F1210E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing – 08 September 2014

Relevant Location: Lancashire

Type of case: Conviction

Panel members: John Penhale (Chair, Lay Member)
Jim Blair (Registrant Member)
Jan Bilton (Lay Member)

Legal Assessor: Michael Levy

Hearings Coordinator: Angela Nkansa-Dwamena

Facts proved: Charges 1a, 1b, 1c, 1d and 2

Facts not proved: None

Fitness to practise: Impaired

Sanction: **Striking-off order**

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

Decision and reasons on service of Notice of Meeting

The panel noted the information contained within the Nursing and Midwifery Council's (NMC) Proof of Service bundle which outlined that the Notice of Meeting had been sent to Mr Pover's registered address by recorded delivery and by first class post on 18 March 2024.

The panel had regard to the Royal Mail 'Track and trace' printout which showed the Notice of Meeting was posted to Mr Pover's registered address on 18 March 2024.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegations, the time, date and the fact that this meeting was to be heard virtually.

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

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

The panel was satisfied that this case could appropriately be dealt with at a meeting.

Details of Charge

That you, a registered nurse:

- 1) On 8th October 2022 at Preston Crown Court were convicted of;
 - a) Conspiracy to steal from employer;
 - b) Supplying Class C drug;
 - c) Theft by Employee;

d) Being Concerned in supplying class C drug.

2) On 2nd March 2023, at Lancashire Magistrates' Court you were convicted of '*On 22/01/2023 at BAMBER BRIDGE in the county of PRESTON drove a motor vehicle, namely FORD FIESTA [redacted] on a road, namely M61 NORTH J8-9, after consuming so much alcohol that the proportion of it in your breath, namely 047 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit.*

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

Background

Mr Pover was referred to The Nursing and Midwifery Council (NMC) on 11 July 2023. The charges arose whilst Mr Pover was employed as a registered nurse at Blackpool Teaching Hospitals NHS Foundation Trust (the Trust).

On 8 August 2022, Mr Pover appeared before the Crown Court and entered guilty pleas to the following offences:

1. Conspiracy to commit Theft (Zopiclone) by Employee between 14/11/17 and 17/11/2017;
2. Supplying a Controlled Drug of Class C (Zopiclone) on 16/11/2017;
3. Theft by Employee (Zopiclone) 01/01/2014 to 28/06/2018;
4. Being Concerned in the supply a Controlled Drug of Class C (Zopiclone) between 01/04/2014 and 28/06/2018.

Mr Pover received the following sentences on 28 October 2022 at the Crown Court:

1. 24 weeks imprisonment suspended for 18 months concurrent to the sentence on Count 2. To carry out 280 hours of Unpaid Community Work as supervised by the Probation Service. To undertake ten days of Rehabilitation Activity as directed by the Probation Service.

2. 26 Weeks imprisonment suspended for 18 months. To carry out 280 hours of Unpaid Community Work as supervised by the Probation Service. To undertake ten days of Rehabilitation Activity as directed by the Probation Service.

3. 24 Weeks imprisonment suspended for 18 months concurrent. To carry out 280 hours of Unpaid Community work as supervised by the Probation Service. To undertake ten days of Rehabilitation Activity as directed by the Probation Service.

4. 26 weeks imprisonment suspended for 18 months consecutive. To carry out 280 hours of Unpaid Community work as supervised by the Probation Service. To undertake ten days of Rehabilitation Activity as directed by the Probation Service.
A total sentence of 52 weeks imprisonment suspended for 18 months.

The requirements of the suspended sentence were for Mr Pover to complete 280 hours of unpaid work and ten days Rehabilitation Activity Requirement. Mr Pover was arrested and charged with driving a motor vehicle with excess alcohol on 22 January 2023. On 2 March 2023, he pleaded guilty and was convicted before Lancashire Magistrates Court. He was disqualified from driving for 38 months and fined £200. This offence was committed during the operational period of Mr Pover's suspended sentence order of 28 October 2022, and the breach was therefore referred to the Crown Court.

Mr Pover appeared before Preston Crown Court on 16 March 2023 in relation to the breach, for which 20 hours were added to the unpaid work requirement of the suspended sentence order.

Decision and reasons on facts

The charges concern Mr Pover's convictions. The panel was provided with copies of the certificates of conviction certified by a competent officer of the Court, dated 7 July 2023. The panel also had sight of the transcript of the Judge's sentencing remarks dated 28 October 2022 and 16 March 2023.

Having been provided with a copy of the certificates of conviction, the panel finds that the facts are found proved in accordance with Rule 31 (2) and (3) of the Rules. These state:

- ‘31.—** (2) *Where a registrant has been convicted of a criminal offence—*
- (a) *a copy of the certificate of conviction, certified by a competent officer of a Court in the United Kingdom (or, in Scotland, an extract conviction) shall be conclusive proof of the conviction; and*
 - (b) *the findings of fact upon which the conviction is based shall be admissible as proof of those facts.*
- (3) *The only evidence which may be adduced by the registrant in rebuttal of a conviction certified or extracted in accordance with paragraph (2)(a) is evidence for the purpose of proving that she is not the person referred to in the certificate or extract.’*

The panel noted that Mr Pover did not submit his Case Management Form (CMF) and there had been limited engagement with the NMC.

The panel finds Charges 1a, 1b, 1c, 1d and 2 proved in their entirety, by way of Mr Pover’s criminal conviction and Rule 31 (2) of the Rules.

Fitness to Practise

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, Mr Pover’s fitness to practise is currently impaired by reason of his conviction. 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.

Representations on impairment

The NMC requires the panel to bear in mind its overarching objective to protect the public and the wider public interest. This includes the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory

body. The panel was referred to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin) and *Cohen v General Medical Council* [2008] EWHC 581 (Admin).

Within the NMC's Statement of Case, it outlined its representations with regards to impairment:

'Impairment

11) *The NMC's guidance explains that impairment is not defined in legislation but is a matter for the Fitness to Practise Committee to decide. The question that will help decide whether a professional's fitness to practise is impaired is:*

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

12) *If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired.*

13) *Answering this question involves a consideration of both the nature of the concern and the public interest. In addition to the following submissions the panel is invited to consider carefully the NMC's guidance on impairment.*

14) *Impairment needs to be considered as at today's date, i.e. whether Mr Pover's fitness to practice is currently impaired.*

15) *The questions outlined by **Dame Janet Smith in the 5th Shipman Report (as endorsed in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin))** are instructive.:*

Do our findings of fact in respect of the [registrant's] misconduct, deficient professional performance, adverse health, conviction, caution or determination

show that his fitness to practise is impaired in the sense that he:

i. has [Mr Pover] in the past acted and/or is liable in the future to act as so to put a patient or patients at unwarranted risk of harm; and/or

ii. has [Mr Pover] in the past brought and/or is liable in the future to bring the [nursing] profession into disrepute; and/or

iii. has [Mr Pover] in the past committed a breach of one of the fundamental tenets of the [nursing] profession and/or is liable to do so in the future and/or

iv. has [Mr Pover] in the past acted dishonestly and/or is liable to act dishonestly in the future

16) It is the submission of the NMC that all four limbs above can be answered in the affirmative in this case. Dealing with each one in turn:

Limb i)

17) Mr Pover's convictions are serious offence that could have caused harm. By stealing medication namely zopiclone which was designated to patients who require it, this could have caused harm as the medication was not available to the patient as Mr Pover's had taken it. The supply of the medication could have also caused harm to those who Mr Pover gave it to as there was no official medical diagnosis for giving the medication and Mr Pover was not qualified to administer the said medication.

18) Zopiclone is a 'controlled drugs' as per the Misuse of Drugs Act 1971 and the Misuse of Drugs Regulations 2001. The National Institute for Health & Care Excellence guidance on controlled drugs provides that controlled drugs are subject to strict legal controls to prevent them from being misused or obtained illegally because they present a heightened risk of abuse and may cause serious problems e.g., dependence and harm if they are not used properly. Consequently, safety

measures are required to ensure they are prescribed, supplied, used, and stored safely and legally to not only protect the patient but the general population at large. Mr Pover committed a serious breach of trust and abused his position of authority. 19) Also, in relation to the driving conviction, although he did not cause harm, by driving under the influence of alcohol, Mr Pover could have caused harmed to the public if he had been involved in accident as his perception would have been altered due to the alcohol.

Limb ii)

20) Mr Pover's convictions are likely to bring or have brought the nursing profession into disrepute. The public would be extremely concerned to hear that a nurse conspired to steal, then also stole controlled medication from his employer then proceeded to supply it. In addition, the driving offence and being convicted of another offence in such close proximity from the previous conviction shows a disregard to the laws of the land and again brought the profession into disrepute.

21) Mr Pover has clearly brought the profession into disrepute by the very nature of the conduct displayed. Registered professionals occupy a position of trust and must act and promote integrity at all times, which have been breached in this case.

22) The public has the right to expect high standards of registered professionals. The seriousness of the caution is such that it calls into question Mr Pover's professionalism and trustworthiness in the workplace. This therefore has a negative impact on the reputation of the profession and, accordingly, has brought the profession into disrepute.

Limb iii)

23) Nurses are expected to act with integrity and promote trust. The caution shows a lack of integrity and does not promote trust in the profession. Mr Pover has breached fundamental tenets of the profession by failing to act with honesty and integrity.

24) The NMC has set out above the relevant sections of the Code we consider have

been breached in this case and which we consider show that Mr Pover has breached the fundamental tenets of the profession.

Limb iv)

25) Mr Pover has been convicted for an offence of theft by employer, an inherent component of which is dishonesty by someone who held a position of trust.

*26) With regard to future risk, it may assist to consider the comments of Silber J in **Cohen v General Medical Council [2008] EWHC 581 (Admin)** namely (i) whether the concerns are easily remediable; (ii) whether they have in fact been remedied; and (iii) whether they are highly unlikely to be repeated.*

*27) The NMC have considered their guidance “**Can the concern be addressed?**” **FTP-13a**. The NMC submits that Mr Pover has not provided evidence to suggest that he has strengthened his practice or addressed the dishonesty part of the concern. Mr Pover’s conduct was dishonest which should always be considered serious as honesty and integrity are fundamental tenets of the profession.*

28) Mr Pover pleaded guilty to the charges and this stands to his credit but there is insufficient evidence that Mr Pover has been able to demonstrate safe practice while working in a clinical capacity.

29) The NMC considers there is a continuing risk to the public due to Mr Pover’s dishonesty in this case which is a difficult element to remediate. We also consider there is a public interest in a finding of impairment being made in this case to declare and uphold proper standards of conduct and behavior [sic]. This is a significant departure from the standards expected of a registered nurse. Mr Pover’s behaviour raises fundamental concerns about his attitude as a registered professional. It also demonstrates serious breaches of trust and abuse of authority. Further the concerns demonstrate attitudinal concerns which are hard to put right.

Public protection

30) Mr Pover's failings fall seriously below the standards expected of a nurse and although Mr Pover's pleaded guilty to the charges but has not provided a reflective statement, there remains a risk to the health, safety or wellbeing of the public. A finding of impairment is therefore required for the protection of the public.

Public interest

31) The NMC consider that a finding of impairment on public interest grounds is required to declare and uphold proper standards and to maintain confidence in the profession and the NMC as a regulator. If no such finding of impairment is made this is likely to undermine confidence in the profession.

32) The convictions involves serious offences of breach of trust and abuse of authority and unsafe behaviour. We therefore consider that Mr Pover's fitness to practise is impaired on both public protection grounds and in the wider public interest.'

The panel accepted the advice of the legal assessor.

Decision and reasons on impairment

The panel went on to decide if as a result of the conviction, Mr Pover's fitness to practise is currently impaired.

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

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

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

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

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *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/their fitness to practise is impaired in the sense that S/He/They:

- 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*

a) *has in the past acted dishonestly and/or is liable to act dishonestly in the future.*'

The panel determined that limbs a, b, c and d are engaged in this case. The panel considered that patients were placed at a risk of unwarranted harm as firstly, the drugs stolen by Mr Pover would not have been available to patients who needed it. Secondly, Mr Pover had supplied unprescribed controlled drugs to others also putting them at risk of harm. The panel also considered that Mr Pover put members of the public at a potential risk of harm by driving under the influence of alcohol.

Mr Pover's conduct and convictions had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. The panel was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

The panel had regard to the case of *Cohen* and considered whether Mr Pover's behaviour and dishonesty were capable of remediation.

The panel concluded that Mr Pover's dishonest conduct would be difficult to remediate. The panel was concerned that there was a pattern of dishonesty, and it had no evidence before it to demonstrate any insight or remediation from Mr Pover. The panel also noted that there was evidence of Mr Pover's deep seated attitudinal and behavioural issues. The panel was of the view that Mr Pover's conduct, and dishonesty is of significant concern and he has not demonstrated any insight or understanding into his actions or their consequences. The panel determined that Mr Pover's behaviour was so serious in this regard that it could not easily be remediated.

In light of the above, the panel was of the view that there is a continuing risk of harm and risk of repetition. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health, safety and well-being of the public and patients, and to uphold/protect the wider public interest, which includes promoting and maintaining public

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

The panel determined that, in this case, a finding of impairment on public interest grounds was required. It was of the view that a well-informed member of the public would be very concerned to hear of a nurse who had planned to steal and did then go on to steal and then distributed controlled drugs, in addition to having a blatant disregard for the law and authority. The panel concluded that public confidence in the profession would be undermined if a finding of impairment was not made in this case.

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

Sanction

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

In reaching this decision, the panel had regard to all the evidence that had 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.

Representations on sanction

The panel noted that in the Notice of Meeting, the NMC had advised Mr Pover that it would seek the imposition of a striking-off order if it found Mr Pover's fitness to practise currently impaired.

'Sanction

33) The NMC consider the following sanction is proportionate:

- *A Striking-off Order*

34) *With regard to the NMC's sanctions guidance the following aspects have led to this conclusion:*

35) *The aggravating features in this case include:*

- a) dishonesty linked directly to clinical practice.*
- b) Abuse of position of trust.*
- c) Disregard for the safety of who they supplied the drug to.*
- d) Criminal offences affecting the reputation of the profession.*
- e) Placing patients at a significant risk of harm.*

36) *The mitigating features in this case include;*

- a) None*

No action/imposing a caution order

37) *Taking the least serious sanctions first, it is submitted that taking no action or imposing a caution order would not be appropriate in this case. The **NMC Sanctions Guidance** ("the Guidance") states that taking no action will be rare at the sanction stage and this would not be suitable where the nurse presents a continuing risk to patients. In this case, the seriousness of the convictions means that taking no action would not be appropriate. A caution order would also not be appropriate as this would not mark the seriousness of the concerns and the case is not at the lower end of the spectrum of impaired fitness to practise. Additionally, neither sanction would restrict Mr Pover from practising.*

Conditions of Practice order

38) *The Guidance (SAN-3c) says that a conditions of practice order is appropriate when the concerns can easily be remediated and when conditions can be put in place that will be sufficient to protect the public and address the areas of concern to uphold public confidence. In this case, a conditions of practice order would not*

be sufficient to protect the public and would not be in the public interest. Mr Pover's actions raise attitudinal concerns which cannot be addressed by a conditions of practice order. There are no conditions which can be formulated to address the conspiracy to supply medication and theft of medication by a registered nurse from their employer or place of employment. Especially when considering the nature of this theft and the misconduct linked to the act of supplying a controlled drug. Mr Pover has also stated that he is not working in a healthcare setting, therefore suitable and workable conditions cannot be formulated. Moreover, a conditions of practice order would not be sufficient to mark the seriousness of the concerns.

Suspension Order

39) According to the Guidance (SAN-d3), the Regulatory concerns are sufficiently serious to warrant a temporary removal from the Register. The NMC notes that Mr Pover has not provided a response to the concerns. Mr Pover's action should be considered as a calculated act of stealing medication in breach of a position of trust. Dishonesty is a difficult element to remediate.

40) Regarding reference SAN-3d, there is clear evidence of harmful deep-seated personality and attitudinal problems when analysing Mr Pover's actions and he poses a significant risk of repetition of this behaviour. He decided to steal controlled medication and supply the medication without any concern as to the risk of his actions. There is also the conspiracy element of the conviction of stealing and supplying. Mr Pover has demonstrated no insight into his actions, in terms of the impact of his theft of the medication of the wider nursing profession.

41) Taking into account the nature and seriousness of the conduct temporary suspension from the register would be insufficient to protect patients, public confidence in nurses, the NMC as its regulator and professional standards. Furthermore, a suspension order would fail to adequately protect the public given the nature of the conduct.

Striking- off Order

42) Given the seriousness of the concerns and subsequent criminal caution, it is submitted that Mr Pover's conduct is fundamentally incompatible with ongoing registration. The convictions involve serious breach of trust, abuse of authority and public safety concerns. Mr Pover's actions raise fundamental concerns around his professionalism and trustworthiness. When looking at the sanctions guidance Reference SAN-2 in the case of dishonesty it can be said that this case involves serious dishonesty which outweighs any personal mitigating factors. Mr Pover has misused his position of trust and was convicted on 2 separated occasions however in short proximity of each other. His actions especially in the theft conviction were calculated. As such, the NMC considers that a striking-off order is required. Public confidence in the profession cannot be maintained unless Mr Pover is removed from the register. It is the only sanction which will be sufficient to protect patients, members of the public and maintain professional standards.

43) Therefore, the NMC considers that a Striking-Off order is the proportionate and appropriate sanction.

44) For the above reasons we invite the panel to make a Striking-Off Order.'

Decision and reasons on sanction

Having found Mr Pover's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel bore 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 endorsed the NMC's representations and took into account the following aggravating features:

- Dishonesty linked directly to clinical practice.
- Abuse of position of trust.

- Disregard for the safety of those who the controlled drugs were supplied to
- Criminal offences affecting the reputation of the profession.
- Placing patients at a significant risk of harm.

Again, the panel considered the written representations of the NMC and concluded that in this case, there were no mitigating features.

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 Mr Pover'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 Mr Pover'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. 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 Mr Pover's registration would be a sufficient and appropriate response. The panel was of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case and Mr Pover's deep seated attitudinal concerns. The panel noted that Mr Pover's dishonesty and convictions were not things that could be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Mr Pover's registration would not adequately address the seriousness of this case and would not protect the public as Mr Pover had knowingly put others at risk of harm.

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 departure from the standards expected of a registered nurse. The panel considered that a suspension order would protect the public for a period of time and would also uphold proper standards and maintain confidence in the profession and the NMC as a regulator. However, the panel determined that due to the nature of Mr Pover's convictions and his lack of engagement, insight and remediation, a suspension order would not be sufficient to address the public protection and public interest considerations in this case.

The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Mr Pover's actions is fundamentally incompatible with Mr Pover remaining on the register.

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?*

Mr Pover's actions were significant departures from the standards expected of a registered nurse and were fundamentally incompatible with him remaining on the register. The panel

was of the view that the findings in this particular case demonstrate that Mr Pover's actions were serious and to allow him to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the matters it identified, in particular the effect of Mr Pover's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct themselves, the panel 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 Mr Pover in writing.

Interim Order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel 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 Mr Pover's own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Representations on interim order

The panel took account of the representations made by the NMC:

'Interim Order Consideration

45) If a finding is made that Mr Pover's fitness to practise is impaired on a public protection and public interest basis and a restrictive sanction imposed, we consider an 18 month interim suspension order should be imposed on the basis

that it is necessary for the protection of the public and otherwise in the public interest. This is because any sanction imposed by the panel would not come into immediate effect but only after the expiry of 28 days beginning with the date on which the substantive decision letter is sent to Mr Pover or after any appeal is resolved. An interim order of 18 months is necessary to cover any possible appeal period.'

Decision and reasons on interim order

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

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore decided to impose 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 striking-off order 28 days after Mr Pover is sent the decision of this hearing in writing.

That concludes this determination.