

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

**Substantive Hearing
26 February 2024 - 5 March 2024**

Virtual Hearing

Name of Registrant: Kimberley Laura Boston

NMC PIN: 15K0011E

Part(s) of the register: Registered Nurse - Adult
RNA (January 2016)

Relevant Location: Rutland

Type of case: Misconduct

Panel members: Wayne Miller (Chair, Lay member)
Amanda Revill (Registrant member)
Adrian Blomefield (Lay member)

Legal Assessor: Charlotte Mitchell-Dunn

Hearings Coordinator: Christine Iraguha

Nursing and Midwifery Council: Represented by Dominic Evans, Case Presenter

Mrs Boston: Present and represented by Chris Pataky,
Barrister (26 - 29 March 2024)

Facts proved by admission: Charges 1 a), b), c), 2 a), b), c), d), e), g), h), i), 3
b), c), 4 a), b), c), d), e) and 5

Facts proved: Charges 2 f)

Facts not proved: Charges 2 j) and 3 a)

Fitness to practise: Impaired

Sanction: **Suspension order (6 months)**

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

Details of charge (as amended)

That you, a registered nurse, including while employed by Care UK at Her Majesty's Prison ~~Stoekton~~ Stocken:

1. Breached professional boundaries in that between ~~July~~ November 2018 and December 2018 you had a relationship with Patient A, a prison inmate, which consisted of:
 - a. You and Patient A kissing on one or more occasions;
 - b. You and Patient A cuddling on one or more occasions;
 - c. You wrote one or more letters to Patient A on or before December 2018 while he was an inmate at HMP ~~Stoekton~~ Stocken;

2. Saw Patient A when no appointment had been made in the SystemOne appointment booking system on one or more of the following dates:
 - a. 19 July 2018;
 - b. 2 August 2018;
 - c. 28 October 2018;
 - d. 4 2 November 2018;
 - e. 14 November 2018;
 - f. 16 November 2018;
 - g. 18 November 2018;
 - h. 12 December 2018;
 - i. 16 December 2018;
 - j. 18 December 2018.

3. On 16 December 2018, conducted a 1 on 1 appointment with Patient A during which you:

- a. Did not inform other members of staff that you would be alone in the treatment area with Patient A.
 - b. Left him alone in the treatment room while you went to look in the corridor;
 - c. Did not access the SystemOne notes for Patient A;
4. After your relationship outlined at charges 1a)-c), above, had been discovered, you continued your relationship through telephone contact with Patient A following his transfer to HMP ~~Highdown~~ Highpoint on one or more of the following occasions:
- a. 29 January 2019;
 - b. 1 February 2019;
 - c. 7 February 2019;
 - d. 16 February 2019;
 - e. 17 February 2019;
5. Your relationship described at charges 1 and 4, above, was sexually motivated in that you sought to have a sexual and romantic relationship with Patient A.

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

Decision and reasons on application to amend the charge

The panel heard an application made by Mr Evans, on behalf of the Nursing and Midwifery Council (NMC), to amend some of the charges in accordance with Rule 28 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules). He referred to the relevant exhibits and told the panel that the spelling

in the preamble of the charge should be changed to Her Majesty's Prison (HMP) Stocken. Regarding charge 2 d), he said that it is a typing error, and it should read 2 November 2018. He submitted that it relates to a point when Patient A was seen with no appointment being made on the appointment booking system. Regarding charge 4, he referred to the relevant document and said that the prison name should be HMP Highpoint and that there has never been any suggestion that the prison name is HMP Highdown.

Mr Evans informed the panel that the more substantive amendment is in charge 1 that discusses a breaching of professional boundaries between March 2018 and February 2019. He requested the change to be July 2018 and December 2018. He told the panel that the documents suggest that on or about 21 December 2018, you were no longer working at HMP Stocken, Patient A had been transferred, and there was not any physical contact as stated in the charge. He submitted that the NMC's position is that the first relevant date of contact with Patient A when no appointment was made on the system was in July 2018.

Mr Evans submitted that the proposed amendments are not substantive but are typing errors, and no injustice will be caused to you. They would provide clarity and more accurately reflect the evidence.

Mr Pataky, on your behalf, made no objections to the amendments sought by Mr Evans.

Proposed amended charge

That you, a registered nurse, including while employed by Care UK at Her Majesty's Prison ~~Stocken~~ **Stocken**:

1. Breached professional boundaries in that between ~~March 2018 and February 2019~~ **July 2018 and December 2018** you had a relationship with Patient A, a prison inmate, which consisted of:
 - a. You and Patient A kissing on one or more occasions;
 - b. You and Patient A cuddling on one or more occasions;

- c. You wrote one or more letters to Patient A on or before December 2018 while he was an inmate at HMP ~~Stæcton~~ **Stocken**;
2. Saw Patient A when no appointment had been made in the SystemOne appointment booking system on one or more of the following dates:
 - d. 4 2 November 2018;
4. After your relationship outlined at charges 1a)-c), above, had been discovered, you continued your relationship through telephone contact with Patient A following his transfer to HMP ~~Highdown~~ **Highpoint** on one or more of the following occasions:
 - a. 29 January 2019;
 - b. 1 February 2019;
 - c. 7 February 2019;
 - d. 16 February 2019;
 - e. 17 February 2019;

The panel accepted the advice of the legal assessor and had regard to Rule 28 of the Rules. She referred to the cases of *Ahmedsowida v General Medical Council* [2021] EWHC 3466 (Admin) and *Professional Standards Authority v Health and Care Professions Council and Doree* [2017] EWCA Civ 319.

The panel was of the view that such an amendment, as applied for, was in the interest of justice. The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore appropriate to allow the amendment, as applied for, to ensure clarity and accuracy.

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

Mr Pataky made a request that this case be held partly in private on the basis that [PRIVATE] will be mentioned. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Mr Evans made no objections.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

The panel determined to go into private session as and when such issues that relate to [PRIVATE] are raised to preserve the confidential nature of those matters.

Further amendment to the charge

At the conclusion of the evidence and before closing submissions, Mr Evans proposed amendments to charge 1 and referred to Rule 28. He provided the rationale behind the charge as currently drafted. He explained that the intention or interpretation of the period when the relationship started and ended was not meant to be exact. The amendment is effectively to allow no ambiguity without changing the substantive nature of the charge. He asked the panel to consider the extent of your admissions in November to December 2018 and said that this allows the panel to make a decision and make findings if appropriate as to when they believe the relationship commenced. He stated that the amendment will make it more precise, and it does not amend the substance of the charge. He invited the panel to bear in mind the admissions that have been made.

Mr Evans then addressed the panel on how charge 5 should read and submitted that it has to mean any reasonable interpretation of the start of that relationship. He said that if the panel is minded to amend and find that the relationship commenced at any stage within that period, then it is after that period after the commencement of the

relationship in which it must consider whether it is sexually motivated. He submitted that the panel does not need to amend charge 5 to make sense of that or make findings on that because it must first decide whether there was a relationship or not. The NMC's position makes no difference to the assessment of charge 5. He submitted that the amendment would cause no injustice bearing in mind the matters that have been admitted.

Mr Pataky objected to the amendments sought by the NMC. He submitted that the amendments should not be allowed because they change the case against you and are a departure from the initial amendments. He said that this would be the NMC's third attempt at changing the charges which they have held since January 2019. He submitted that the approach the NMC is taking is concerning and appears that the changes sought do not reflect the evidence that the panel has heard.

Mr Pataky said that the panel on its own volition has the power to amend the charge to reflect the evidence before it if it so felt that it was appropriate. He submitted that there is no ambiguity as to when the alleged conduct occurred. The panel has heard all the evidence as well as from the written evidence before it that the conduct started between November and December 2018. You confirmed that the first letter would have been after 14 November 2018 and after the comment about your appearance from Patient A when things escalated in terms of the kissing and cuddling. There is no ambiguity in the evidence.

Mr Pataky submitted that the approach the NMC is taking despite the clear evidence is fundamentally different. The amendment seeks to tear up any assertion as to the time period in which the kissing and cuddling occurred. The NMC is seeking to tear up what it previously defined as being the relationship itself and it seemingly wishes to go wider than the kissing, cuddling and letter writing. He submitted that it will be a different case that the NMC is putting to you, and it would make a significant impact on the interpretation of charge 5. He asked the panel to bear in mind your position on charge 5, that it all occurred between November to December 2018.

Mr Pataky submitted that given that the NMC now propose to redefine and expand what it refers to or defines as the relationship with no start date. It is unclear what the NMC is seeking to achieve within the allegation as there is no end point. He stated

that the NMC's approach drives a 'coach and horses' through the fundamental principle of natural justice. A person should know the case that has been brought against them, particularly where the case is being responded to, and where an amendment has already been made to the stated period at the start of the hearing. The amendment cannot be explained by the evidence and if allowed the period in the charge 1 should be narrowed. He submitted that to allow the amendment would be wholly inappropriate, unfair and would cause substantial prejudice to you and asked the panel to reject the application.

The panel accepted advice from the legal assessor. It noted its powers under Rule 28 of the Rules, which provide that before making its findings of fact, in accordance with Rule 24(1)(d) or (i), the Committee may amend the charge set out in the notice of hearing, unless, having regard to the merits of the case and the fairness of the proceedings, the required amendment cannot be made without injustice.

The panel was provided with advice in relation to the authority of *Ahmedsowida* and *Doree* and was reminded that charges should be sufficiently particularised. It was reminded that they needed to consider whether amending the charge would cause any injustice.

The panel noted that the amendments sought by the NMC were not minor in nature, they included the use of the words 'commenced' and 'included', they changed the nature and scope of the allegation. It noted that the use of such terminology had the potential to widen the scope of the allegation by potentially introducing breaches of professional boundaries other than those which were particularised in sub particulars 1a, 1b and 1c.

The panel considered the timing of the application to amend and noted that in your preparation of the case and throughout the evidence, you had not had the opportunity to address the potentially widened scope of the allegation. While the panel noted that Mr Evans on behalf of the NMC stated that the amendment was not made for the purpose of the NMC seeking to advance a case beyond that which was set out in the sub particulars, the panel considered that the proposed amendments did change the nature and scope of the allegation.

The panel also considered that the proposed amendments would also impact upon charge 5, by potentially introducing breaches of professional boundaries other than those which were particularised. It considered that this could potentially widen the extent of the conduct, which is alleged to have been sexually motivated.

The panel further considered that the addition of the words 'on an unknown date' did not of itself cause any injustice, however without the other proposed amendments, set out above, the wording was unclear and without context.

Having regard to the merits of the case and fairness of the proceedings, the panel determined that in all the circumstances it was unfair to amend the allegation. It concluded that there was a prejudice to you in amending the allegation, as this would potentially introduce breaches of professional boundaries other than those which were particularised. This was a dispute you had not been able to address in the presentation of your case due to the timing of the application.

The panel therefore refused the application to amend the stem of allegation 1 as shown below.

That you, a registered nurse, including while employed by Care UK at Her Majesty's Prison ~~Stoekten~~ Stocken:

1. Breached professional boundaries in that on an unknown date between ~~March 2018 and February 2019~~ July 2018 and December 2018 you had commenced a relationship with Patient A, a prison inmate, which ~~consisted of~~ included:
 - a. You and Patient A kissing on one or more occasions;
 - b. You and Patient A cuddling on one or more occasions;
 - c. You wrote one or more letters to Patient A on or before December 2018 while he was an inmate at HMP ~~Stoekten~~ Stocken;

Background

You were referred to the NMC on 30 January 2019 by the Regional Manager of Care UK. You had been employed by Care UK as a registered nurse at HMP Stocken (the

Prison) but resigned on 2 January 2019 during an investigation meeting when you admitted to a relationship with a prisoner (Patient A). You commenced your employment with Care UK in October 2017 as a Band 5 registered nurse.

It is alleged that in March 2018, you started an unprofessional relationship with Patient A [PRIVATE] and was a patient in your care. Concerns were raised that you had been behaving unusually towards Patient A and that you were allegedly spending too much time with the patient. The alleged relationship involved kissing, cuddling and the exchange of love letters.

During the alleged relationship you created clinical appointments (requiring movement slips) for Patient A that were not clinically necessary in order that you could meet him including outside of normal operating times and at weekends. It is alleged that you failed to record activities and failed to access Patient A's clinical records on SystemOne (the patient care record system used by the Prison) during appointments.

It is alleged that you saw Patient A on numerous occasions without an appointment booked on SystemOne. Patient A had a [PRIVATE].

On 16 December 2018, you allegedly saw Patient A for a clinical appointment, however, made no record of the consultation on SystemOne. Upon review of the CCTV footage on 16 December 2018, you and Patient A were seen on three separate occasions during the afternoon as well as three incidents when both were in a medical room together for 21 minutes, 35 minutes and eight minutes. There were periods in which you left Patient A in the room on his own. He could have had access to the computer and other items which could have been used to manufacture a weapon (pens, mouse, cables etc). However, no record of the consultation was made on SystemOne. Furthermore, you did not access records, nor did you alert other members of staff of the meeting for your own safety.

On 21 December 2018, a movement slip was generated and delivered to the Wing for Patient A, then deleted the appointment thereafter from SystemOne.

On 21 December 2018, you were formally suspended from the Prison after the relationship was discovered, and you subsequently resigned on 2 January 2019. You initially claimed to have no idea of the allegations.

You allegedly did not immediately end the relationship once it was discovered in December 2018. Patient A was moved to another prison, HMP Highpoint. You contacted him by telephone at the other prison and did not cease to do so until February or March 2019. Your mobile number was added to the pin phone system on 29 January 2019 at HMP Highpoint. A total of 31 calls were made between 29 January 2019 - 17 February 2019.

Decision and reasons on facts

At the outset of the hearing, the panel heard from Mr Pataky, who informed the panel that you made admissions to charges 2 a), b), c), d), e), g), h), i), 3 b), c), and 4 a), b), c), d), e).

Before the panel made its findings on facts, it considered the submissions made by both Mr Evans and Mr Pataky that it has powers under Rule 28 and to amend a charge on its own volition. Upon the advice of the legal assessor, the panel amended the stem of charge 1. Mr Evans and Mr Pataky made no objections. Mr Pataky informed the panel that in light of the amendment to the stem in charge 1, you make full admissions to charge 1 in its entirety and charge 5.

The panel therefore finds charge 1 in its entirety, 2 a), b), c), d), e), g), h), i), 3 b), c), and 4 a), b), c), d), e) and 5 proved by way of your admissions.

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Evans on behalf of the NMC and Mr Pataky on your behalf.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This

means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

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

- Witness 1: Regional Manager for Care UK at the time.
- Witness 2: Head of Healthcare at HMP Stocken at the time.

The panel also considered the written evidence of the following NMC witness:

- Witness 3: Police Investigator.

The panel also heard evidence from you under affirmation.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the witness and documentary evidence provided by both Mr Evans on behalf of the NMC and Mr Pataky on your behalf.

Prior to the panel deliberating on facts, it considered the submissions made by both Mr Evans and Mr Pataky on the panel's powers to amend the allegations in line with Rule 28 of the Rules. It determined that it was fair and just to amend the stem of charge 1 of its own volition, to shorten the period stipulated from July 2018 to December 2018 to November 2018 to December 2018. The panel notes that there is no evidence before it to suggest the conduct as set out in sub particulars 1 a), b), c) had occurred before November 2018. The panel noted that the NMC relied upon an intelligence report however nothing within this report provided details of the conduct relied upon in sub particulars 1 a), b) or c). As such it considered it was fair and just in all the circumstance to amend charge 1, as shown below.

Charge 1 (as amended)

That you, a registered nurse, including while employed by Care UK at Her Majesty's Prison Stocken:

1. Breached professional boundaries in that between ~~July~~ **November** 2018 and December 2018 you had a relationship with Patient A, a prison inmate, which consisted of:
 - a. You and Patient A kissing on one or more occasions;
 - b. You and Patient A cuddling on one or more occasions;
 - c. You wrote one or more letters to Patient A on or before December 2018 while he was an inmate at HMP Stocken.

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

Charge 2

2. Saw Patient A when no appointment had been made in the SystemOne appointment booking system on one or more of the following dates:
 - f. 16 November 2018;

This sub charge is found proved.

In reaching this decision, the panel took into account the table of extracted appointment entries from the SystemOne record, your evidence, care records, Witness 1, 2 and 3's evidence.

The panel noted from Witness 1's evidence that the entry on 16 November 2018 from SystemOne showed that no appointment had been made for Patient A to be seen. It reminded itself that SystemOne is used for medical appointments and records held on the patient and/or prisoner. Witness 2 in her evidence confirmed that it was an afternoon clinic for a nurse review and stated that Patient A had some [PRIVATE] as shown in the care record. The panel noted that Witness 3's police

statement confirmed that Patient A had been seen by you on 16 November 2018. In your evidence, you confirmed that it was an afternoon clinic and you saw patients.

In view of the evidence before it, the panel was satisfied on the balance of probabilities, that on 16 November 2018, you saw Patient A when no appointment had been made in the SystemOne appointment booking system. It therefore found this sub charge proved.

j. 18 December 2018.

This sub charge is found NOT proved.

In reaching this decision, the panel took into account the table of extracted appointment entries from the SystemOne record, care records, Witness 1 and 2's evidence, and your oral evidence.

The panel noted from Witness 1's evidence that the entry on 18 December 2018 from SystemOne showed that no appointment had been made for Patient A to be seen. The panel had sight of the information extracted from SystemOne for this day and noted that there was no appointment made to see Patient A on 18 December 2018. It considered the care records for 18 December 2018 and noted that Patient A was seen by another nurse. The panel noted Witness 2's evidence that she was not able to confirm which nurse the extracted appointment entry from the SystemOne record related to. The panel was of the view that it is more likely that the extracted information from SystemOne reflects the entry made in the care record which records that Patient A was seen by another nurse.

In your oral evidence, you said that you do not remember seeing Patient A on 18 December 2018 as no appointment was made for the patient.

The panel noted that the NMC is relying on the extracted information from SystemOne to prove this charge. However, it observed this entry is not consistent with the care record which showed that Patient A was seen by another nurse. It was of the view that there was insufficient evidence to prove that on 18 December 2018

Patient A was seen by you when no appointment had been made in the SystemOne appointment booking system. It decided that the NMC has not discharged its burden of proof in respect of this allegation and therefore found this sub particular not proved.

Charge 3

3. On 16 December 2018, conducted a 1 on 1 appointment with Patient A during which you:
 - a. Did not inform other members of staff that you would be alone in the treatment area with Patient A.

This sub charge is found NOT proved.

In reaching this decision, the panel took into account Witness 1, 2's evidence, your oral evidence, annotations of the CCTV footage, and your emails to the NMC.

The panel noted that it was not provided with the CCTV footage but was provided with the annotation. The annotations state that you did not inform the person in charge of the shift (known as Hotel 1) but do not confirm whether or not you informed other members of staff that Patient A would be alone with you in the treatment area.

The panel observed that throughout your evidence and your communication with the NMC you have been consistent in stating that you had informed another nurse that Patient A was with you in the treatment area. It noted the witness statement from the healthcare assistant which stated that she was aware that Patient A was with you in the treatment area.

The panel noted that Witness 1 and 2 did not provide reliable evidence regarding the CCTV footage due to the passage of time and them not being the individuals that wrote the annotations.

In view of the evidence before it, the panel was not satisfied that the NMC has discharged its burden of proof in respect of this allegation. It therefore found this sub particular not proved.

Fitness to practise

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

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

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

Submissions on misconduct and impairment

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

Mr Evans referred to the case of *Roylance and Calhaem v GMC* [2007] EWHC 2606 (Admin) and invited the panel to take the view that the facts found proved amount to misconduct. He submitted that your actions amounted to a breach of the 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015)'

(the Code) particularly 10.1, 20.1 and 20.6. He also submitted that your actions fell significantly short of the standards expected of a registered nurse. You acted in a way that was not appropriate and he submitted that the charges are serious and that both taken individually and collectively do amount to misconduct. The failings relate to fundamental nursing skills and amount to serious professional misconduct, and in particular the breaching of professional boundaries between a patient and a health care professional.

Mr Evans asked the panel to consider the period of time the relationship existed between November to December 2018 in relation to the kissing, cuddling and letter writing. He submitted that in that time, the relationship escalated in seriousness. He submitted that there was a breach of trust and confidence in the profession as a professional nurse looking after a patient and failing to keep professional boundaries. He said that even after the relationship was discovered on 21 December 2018 and after Patient A was moved to another prison HMP Highpoint, the relationship continued. He asked the panel to consider your first email in February 2019 which appeared to show that you were aware that the relationship was wrong but continued as shown in the phone calls until 17 February 2019. He submitted that the relationship stopped because of the police investigation.

Mr Evans referred the panel to the lack of record keeping on 16 December 2018 which he submitted was a breach to fundamental nursing skills. You did not access Patient A records and neither did you keep any records of the appointment. He mentioned charge 2 and asked the panel to consider that you saw Patient A from July to December 2018 when no appointments were made on the system and asked the panel to consider the purpose of the consultation. He said that although Patient A was left in a room on his own for a short period of time, he could have accessed computer cables or stationery which could have been used to harm either himself, yourself, or other colleagues.

Although, breaches of the NMC code do not automatically result in a finding of misconduct. Mr Evans submitted that members of the public would be seriously concerned by your actions given that upon your induction you had been trained in professional boundaries. He submitted that your actions fall short of the conduct and

standards expected of a registered nurse and amount to misconduct. He reminded the panel that you accept that your actions amount to misconduct.

Mr Evans moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin). He asked the panel to find that the first three limbs in *Grant* have been engaged and invited the panel to consider Patient A's vulnerabilities [PRIVATE]. He referred the panel to the entry on 21 December 2018 and submitted that it is a factor to consider in that Patient A was placed at unwarranted risk of harm. In respect to 18 November 2018, he submitted that Patient A's [PRIVATE] was examined in the wing area rather than the healthcare setting and this may have caused a risk of infection.

Mr Evans submitted that the profession was brought into disrepute and that you breached professional boundaries when you had a relationship with Patient A who was an inmate. This can cause a risk in trust with patients, families, and healthcare providers. He asked the panel to consider your insight, your early admissions from emails in February 2019, your training certificates, and the work you have undertaken since the allegations came to light including your current employment. He said there is not enough information at this stage for the panel to conclude that remediation has been embedded and that there is no longer a risk of repetition. You have not worked in the same or similar environment since.

Regarding the risk of manipulation, he said that this could happen in other settings. Patient A had an alleged previous history of manipulation at another prison. He asked the panel to consider in their professional judgement what you have said regarding the risk of repetition bearing in mind that you have not worked in a similar setting again. In light of this, he submitted that there is high risk of repetition and invited the panel to find that your fitness to practise is currently impaired on both public protection grounds and in the wider public interest. Mr Evans reminded the

panel that you accept that your fitness to practise is currently impaired by reason of your misconduct.

You told the panel that you are incredibly sorry for the events that occurred. You fully appreciate and accept that they should never have taken place. Due to the seriousness of the charges, your actions amount to misconduct and that your fitness to practice is impaired. You accepted that the public interest includes the duty to uphold professional standards and conduct and to maintain public confidence in the profession. You mentioned the relevant parts of the Code that you said were breached by your actions and said that your behaviour was against the Code of Conduct and stated that it was far below the acceptable standards which you take full responsibility for. Although, the panel heard your mitigating circumstances, you accept that your behaviour affected other people including Patient A. You said that your actions influenced Patient A's behaviour because you did not do anything when he made his advances. You informed the panel the impact of your misconduct on [PRIVATE], colleagues, nursing profession and members of the public. You detailed how it affected you.

You referred the panel to the training you have done including training on professional boundaries among others. The course has helped you think of how your behaviour affected other people just as it had impacted you. You are currently undertaking a leadership and management apprenticeship and said that your current job involves huge amounts of documentation and record keeping to which you have not had any issues with. As the safeguarding lead within your service and given the nature of the service users in your care, you provide reports on safeguarding which are done in a timely manner following procedures and no issues have been raised.

You told the panel that you have always engaged with the NMC and as far back as 2019 as shown in the emails, you have been open and honest about your misconduct, and your position has not wavered. You admitted the inappropriate relationship before you resigned from Care UK and the Prison. You explained why you continued to speak to Patient A when he was transferred to another prison. [PRIVATE]. However, this ceased on 17 February 2019, and you fully accept that despite the circumstances you should not have continued to talk to Patient A. You

said that you disclosed the misconduct to previous and current employers. You stated that you would like to keep your NMC PIN because you still have to undertake a fit person's interview in your current position. You said that although your service users are incredibly challenging due to their learning disabilities, you are passionate about what you do. You stated that your behaviour occurred only in November to December 2018, it was a short amount of time which was isolated with just one person. You explained the contextual [PRIVATE] circumstances that you were facing at the time. You stated that these issues are not in any way an excuse for your behaviour but that it was [PRIVATE].

You referred the panel to the testimonials which attest to your honesty, integrity, and approach to nursing from different professionals following this event. You said that you have never before nor after this event been subject to any criminal or disciplinary procedures. You told the panel that you attended the interim order hearing with another panel and no restrictions were placed on your registration. You said that you were recently promoted to the position of home manager which is a big role with more responsibilities. You explained what that role entailed. You stated that you are sure the misconduct will not happen again and provided reasons for this. You detailed how your [PRIVATE] were impacted by your misconduct. You said that this is not a criticism to the NMC, but it has taken five years for this matter to get to a hearing, and the [PRIVATE] toll on you, has been astronomical.

You explained the steps you have taken to ensure that such behaviour never occurs. You have learnt how [PRIVATE]. You explained the [PRIVATE]; and said that further [PRIVATE] in processing the last five years with the aim of [PRIVATE] and putting the events in the past. You said that you should have been more vocal with your previous line manager about how you were finding the job and work environment difficult. As a result, you are open and honest with your current manager. You told the panel that although your current role does not require registration, you have spent a long time improving yourself and referred to the testimonials provided on your behalf and said that you would like to retain your registration.

You reiterated that your actions were serious, amount to misconduct and that your fitness to practise is impaired. You accept that your conduct fell short of the

standards expected of a professional registered nurse; that you see how members of the public would expect you to act, and that your misconduct brought the profession into disrepute. You said that you are truly and deeply sorry and very ashamed of your actions.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, *Calhaem v General Medical Council* [2007] EWHC 2606 (Admin), *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), *General Medical Council v Meadow* [2007] QB 462 (Admin), *Cheatle v General Medical Council* [2009] EWHC 645 (Admin), *Zygmunt v General Medical Council* [2008] EWHC 2643 (Admin), *Yeong v General Medical Council* [2009] EWHC 1923 (Admin) and the NMC guidance on impairment.

Decision and reasons on misconduct

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

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

'10. 1 complete records at the time or as soon as possible after an event, recording if the notes are written sometime after the event

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

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

20.6 stay objective and have clear professional boundaries at all times with people in your care (including those who have been in your care in the past), their families and carers'

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct.

However, the panel was of the view that charge 1 a), b) and c) amount to misconduct. It considered that your action in charge 1 in its entirety regarding Patient A was a clear breach of professional boundaries in terms of the kissing, cuddling and letter writing. It noted your actions to be serious; not acceptable of a professional registered nurse, and that your actions fell short of the standards of a registered nurse. It noted that the inappropriate behaviour occurred within the workplace environment and with a vulnerable patient. The panel was of the view that members of the public would find it shocking given the setting in which the behaviour occurred and noted that such behaviour would have led to further compromise and potential distraction in your care for others. Although, no harm was caused, the panel noted that you were in a position of trust as a registered nurse and your actions breached the fundamental tenants of the nursing profession.

Regarding charge 2 in its entirety, the panel reminded itself of its findings on facts. It was of the view that each sub particular taken in isolation does not amount to misconduct as these were ad hoc appointments which would have been dealt with administratively. It noted that in sub particular 2 f), you were the nurse booked for the review clinics and therefore patients were allocated to you on that day. Therefore, the panel determined that charge 2 in its entirety did not amount to misconduct.

Regarding charge 3 b), the panel bore in mind Patient A's vulnerabilities and reminded itself that he had [PRIVATE]. In leaving Patient A alone in the treatment room while you went to look in the corridor, he could have used the computer and other items to manufacture a weapon for his or another's use, potentially putting his life, your life, other prisoners, and other professionals at risk. The panel was of the view that it is essential for healthcare professionals to adhere to guidelines for patient safety and professional ethics. The panel therefore found this sub particular amounted to misconduct.

Regarding charge 3 c), the panel was of the view that in not accessing Patient A's notes during a consultation on SystemOne when he was in a healthcare setting, you did not avail yourself of information relating to the patient's health. This could have changed since you saw him previously. Furthermore, you did not record the details of his visit for other healthcare professionals to refer to in the future. The panel considered that such an omission fell short of the standards expected of a nurse and was of the view that members of the public would expect a nurse to access medical records of a patient in their care. The panel determined that this amounted to misconduct.

Regarding charge 4 a), b) c), d) and e), the panel noted that in you continuing the relationship through telephone contact with Patient A after it was discovered and after his transfer to HMP Highpoint was a serious breach of professional boundaries. Despite admitting in an interview in January 2019 and subsequently in an email to the NMC in February 2019 that the relationship was inappropriate, you continued contacting Patient A on more than one occasion. The panel was of the view that such conduct fell far short of the standards expected of a registered nurse and therefore amounted to misconduct.

Regarding charge 5, the panel bore in mind the content of the letters between you and Patient A. The letters are clear that the relationship was sexually motivated in that you sought to have a sexual and romantic relationship with Patient A. It noted that as a professional nurse, you were engaging in a romantic relationship with a vulnerable patient who was an inmate in HMP Stocken. It was of the view that this kind of conduct fell far short of the standards expected of a registered nurse. It considered that a member of the public and other professionals would be shocked to know that a registered nurse was seeking a sexual and romantic relationship with a vulnerable patient. The panel considered that this amounted to misconduct.

The panel found that your actions in charges 1 a), b), c), 3 b), c), 4 a), b), c), d), e), and 5) did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

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

In coming to its decision, the panel had regard to the Fitness to 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 and to maintain professional boundaries. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients’ and the public’s trust in the profession.

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

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

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

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

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

The panel in its assessment, determined that the first three limbs of the *Grant* test are applicable to this case.

The panel noted that although no actual harm was caused to Patient A, it was of the view that the role of a nurse carries significant responsibility in upholding patient care, their best interests and ensuring safety and well-being. The panel determined that your misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

The panel then considered the factors set out in the case of *Cohen v GMC* [2007] EWHC 581 (Admin). It went on to consider whether you remained liable to act in a way that would put patients at risk of harm, would bring the profession into disrepute

and breach the fundamental tenets of the profession in the future. In doing so, the panel considered whether there was sufficient evidence of insight and remediation.

The panel first considered whether your conduct was capable of being remedied. The panel considered the guidance FTP-14a, in the NMC's Fitness to Practice Library which stated that inappropriate personal or sexual relationships with patients, service users or other vulnerable people may not be possible to address by way of remedial steps such as training. The panel noted that although in this particular case the conduct is difficult to remediate, it is not impossible.

The panel considered that whilst Patient A was vulnerable, there was an alleged history of manipulation by Patient A of another member of staff at another prison. It considered it possible that you were manipulated by Patient A. It also bore in mind that prior to this position at HMP Stocken, you were only previously employed for six months in a nursing home after qualifying as a registered nurse and noted that you did not appear to receive significant training on manipulation from the Prison or Care UK.

The panel considered that there were no deep-seated attitudinal issues, this was an isolated incident, in a short period of time during a [PRIVATE] and noted these contextual circumstances. It also looked at the context in which this allegation occurred; you were new in the profession, you were placed in a difficult work environment with little support, and when you raised your concerns to your manager at the time, and you were told to 'toughen up'. The panel considered your early admissions both to your employer at the time, to the NMC and your continued engagement with the NMC.

The panel considered the relevant training you have undertaken which included Professional Boundaries, and Professional Medical Ethics in Health and Social Care. It noted your continued employment as a registered nurse and your recent promotion as the acting service manager. It took account of the several positive testimonials provided on your behalf from colleagues and from your current manager, who are all aware of the NMC proceedings, and attest to your good practice as a registered nurse. It noted the steps you have taken since the referral

was raised to address the issues of concern including being the safeguarding lead in your service.

Regarding insight, the panel considered your early admissions, you have demonstrated an understanding of how your actions put yourself, Patient A, and colleagues at a risk of harm. You have demonstrated an understanding of why what you did was wrong and how this impacted negatively on the reputation of the nursing profession. You have apologised to this panel for your misconduct and sufficiently demonstrated how you would handle the situation differently in the future. You articulated what you have learnt and how you currently deal with patients seeking to breach professional boundaries.

The panel was satisfied that the misconduct in this case is capable of being addressed and carefully considered the evidence before it in determining whether or not you have taken steps to strengthen your practice. It noted your continued employment since the referral was raised and considered that there is no evidence of repetition of the misconduct at your current workplace in the two and half years of employment. It considered the relevant training you have undertaken to strengthen your practice and the lessons you have learned. It noted your promotion and acknowledged that you are the safeguarding lead where you are required to report on issues relating to safeguarding in the workplace. Although, you have not worked in a prison environment since, the panel is of the view that the risk of repetition is low.

The panel therefore decided that a finding of impairment is not necessary on the grounds of public protection.

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

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

The panel reminded itself of your admission that you accept by reason of your misconduct that your fitness to practise is impaired.

Having regard to all the above, the panel was satisfied that your fitness to practise is currently impaired on public interest grounds only.

Sanction

The panel has considered this case very carefully and has decided to make a suspension order for a period of six months. The effect of this order is that the NMC register will show that your registration has been suspended.

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

Submissions on sanction

In the Notice of Hearing, dated 23 January 2024, the NMC had advised you that it would seek the imposition of a striking off order if it found your fitness to practise currently impaired. During the course of the hearing, the NMC revised its proposal and submits that a suspension order for six months is more appropriate in light of the panel's findings.

Mr Evans referred the panel to the NMC Fitness to Practice Library when determining seriousness, this included FTP-3, SAN-2, Professional Standards Authority document called clear sexual boundaries between healthcare professionals and patients, guidance for fitness to practise panels (January 2008), SAN-1, and SAN-3d. He asked the panel to bear in mind proportionality and the overarching objective of protecting the public. He provided the panel with the aggravating and

mitigating features. He reminded the panel to consider the seriousness of the misconduct in particular the relationship, breaching of professional boundaries, breaching the fundamental tenants of the nursing profession, you were in a position of trust as a registered nurse and the length of the relationship from November 2018 to February 2019. You sought to have a sexually motivated relationship with Patient A, and this would have affected colleagues and members of the public.

Mr Evans asked the panel to bear in mind your early admissions, that there were no attitudinal issues, the relationship did not extend beyond kissing and cuddling; you did not have previous experience working in a prison environment, and there were [PRIVATE] contextual issues. He submitted that due to the seriousness of the matters raised an order that does not restrict your practice would not be appropriate. He stated that a caution order is not appropriate in light of the issues raised and that they would be no conditions that are relevant, proportionate, workable, and measurable that would address the issues raised.

He referred the panel to its decision on impairment and to the NMC guidance FTP-14a and asked it to consider whether the concerns can be addressed. He submitted that the NMC's position is that such conduct is not easy to remediate and can be best measured by time in practice. No training courses or supervision could alleviate or address the concerns raised.

Mr Evans submitted that the misconduct was very serious and a six-month suspension order with a review would be sufficient to address the wider public interest considerations. He referred the panel to SAN-3d when considering the seriousness of the case and whether your registration requires temporary removal. He submitted that a period of suspension will be sufficient to protect the public confidence in the profession. He stated that although you have shown great insight and the panel has found that there is a low risk of repetition, when considering seriousness, the panel will look how far your conduct fell short of the standards expected of a registered nurse. In all the circumstances of this case, Mr Evans invited the panel to impose a six-month suspension order with a review which he submitted would be sufficient to uphold the public interest.

You told the panel that in view of its findings that there is a low risk of repetition of the misconduct, a six-month suspension order in your view is inappropriate. You have had continuous employment in the same sector for the last two and a half years as a nurse, a deputy manager and then currently as acting service manager, and no concerns have been raised. You said that a suspension order would be restrictive given that the panel agreed that you did not pose a risk to the public, found that there were no deep-seated attitudinal issues, that it was an isolated incident during a [PRIVATE] and had considered the [PRIVATE] contextual issues. You said that you have reviewed the sanctions available on the NMC website and you feel that a caution order for three to five years would be appropriate to mark that the behaviour was unacceptable and must not happen again. You agree that you are not a risk to patient safety.

You reminded the panel that you have not had any restrictions on your practise in the last two and a half years and no incidents have been reported since this referral. You said that your operational director who also provided a testimonial has asked you to assist in running a second home. This is a large service of 88 beds with a specialist unit providing care to dementia patients. You believe that this is a testament to your capability as a nurse and as a manager. You stated that a suspension order would restrict your ability to assist your organisation at a time when it is without both a deputy and service manager in the homes that you have been asked to assist. You reminded the panel that you are the acting service lead in a home that is providing support for adults with learning disabilities, mental health, and challenging complex behaviour. For you to become the service manager, you will be required to pass a fit person's interview.

Although your PIN is not vital to your role, you believe that a suspension order will lead to a less favourable or a delayed outcome which will have consequences for your organisation. You referred to regulation seven of the Health and Social Care Act 2014 and stated that a service which is not considered to be well led is highly unlikely to receive a favourable inspection from the Care Quality Commission. You said that you are aware that your conduct fell far below the standards expected of a registered nurse but your workplace where you have worked for the last two and a

half years is important to you. You stated that there has been no repeat of the misconduct, and it will never happen again.

You said that a suspension order will affect how you [PRIVATE]. You asked the panel not to impose a suspension order but invited it to consider a caution order for a period that they see fit to reflect the seriousness of case.

Decision and reasons on sanction

Having found your fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Abuse of trust as a registered nurse;
- Having a sexually motivated relationship with Patient A was a serious breach of professional boundaries;
- Patient A was an inmate in HMP Stocken and your relationship took place during your working hours;
- Patient A was vulnerable;
- Patient A, yourself, professional colleagues, prison colleagues and other prisoners were put at a risk of harm;
- You continued the relationship after Patient A was moved to another prison;
- Your relationship occurred from November 2018 to December 2018 in the Prison and continued by telephone until February 2019.

The panel also took into account the following mitigating features:

- Early and consistent admissions;

- You have expressed remorse, apologised, and provided significant insight;
- You understand and take responsibility for your actions and behaviour;
- You had a lack of experience as a nurse at the time the issues arose;
- You had a lack of experience in working in a prison environment;
- You do not appear to have received significant training on manipulation of staff by prisoners from the Prison or Care UK;
- The sexual conduct was limited to kissing, cuddling and letter writing.
- Previous good character;
- Your engagement in NMC proceedings throughout;
- You have undertaken some relevant training to address the concerns;
- Testimonials from senior managers attesting to your clinical practice;
- You have practised without restrictions since the referral was made, there have been no concerns with your practise, and you have been promoted as acting service lead;
- Considerable [PRIVATE] contextual factors;
- You have articulated what you have learnt, currently do, and will do to make sure such misconduct is not repeated;
- Low risk of repetition;

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, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable, and workable. It 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. The misconduct identified in this case was not something that can be addressed through retraining.

Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case and would not address the wide public interest considerations.

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

The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register.

In this particular case, the panel noted that this was a single and an isolated instance of misconduct when you breached professional boundaries with Patient A. It considered that there were no deep-seated attitudinal concerns, it took into account the contextual issues around the incident and noted that the misconduct has not been repeated since it was raised. You have provided significant insight, remediation and strengthening of practice.

Balancing all these factors and taking into account all the evidence before it, including the low risk of repetition, the panel determined that the appropriate and proportionate sanction is that of a suspension order. It was satisfied that a temporary removal from the NMC register would be sufficient to address the seriousness of the misconduct in this case and to mark the public interest.

Having regard to the effect of your actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct herself, the panel has concluded that nothing short of removal from the register 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.

It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in your case to impose a striking-off order. You have been working as a registered nurse with no restrictions since this incident and no further regulatory concerns have been raised about your nursing practice. It acknowledged the progress you have made in your employment and noted your promotion as acting service lead. The panel considered that the imposition of a striking off order would mean the loss of an experienced nurse to the NMC register. The panel concluded that a striking off order would be wholly disproportionate in the circumstances.

Balancing all these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction.

The panel noted the hardship such an order will inevitably cause you. However, this is outweighed by the public interest in this case.

The panel determined that a suspension order for a period of six months was appropriate in this case to mark the seriousness of the misconduct.

Having found that your fitness to practise is currently impaired, the panel bore in mind that it determined there were no public protection concerns arising from its decision. In this respect it found your fitness to practise impaired on the grounds of public interest.

In accordance with Article 29 (8A) of the Nursing and Midwifery Order (the Order) the panel may exercise its discretionary power and determine that a review of the substantive order is not necessary.

The panel determined that it made the substantive order having found your fitness to practise currently impaired in the public interest. The panel was satisfied that the substantive order will satisfy the public interest in this case and will maintain public confidence in the profession as well as the NMC as the regulator. Further, the substantive order will declare and uphold proper professional standards. Accordingly, the current substantive order will expire, without review.

The panel considered that this order was necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

This will be confirmed to you in writing.

Interim order

As the suspension order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in your

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

Submissions on interim order

Mr Evans invited the panel to impose an interim suspension order for a period of 18 months to allow for the possibility of an appeal to be made. He referred the panel to the NMC guidance SAN-5. He submitted that an interim order should be made on the same grounds as the panel's findings. He invited the panel to have regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order. He said that to do otherwise would be incompatible with its earlier findings. He stated that if no appeal is made, the interim order will be replaced with the suspension order 28 days after.

You made no submissions.

Decision and reasons on interim order

The panel bore in mind that there are no public protection concerns which require an interim order to be in place in the intervening period before the substantive order takes effect.

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

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

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

That concludes this determination.