

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

**Substantive Meeting
Wednesday, 20 March 2024 – Friday, 22 March 2024**

2 Stratford Place, Montfichet Road, London, E20 1EJ

Name of Registrant: Yvonne Judith Shahid

NMC PIN 7612592E

Part(s) of the register: Registered Nurse - Adult (Level 2)

Relevant Location: London

Type of case: Misconduct

Panel members: Derek McFaull (Chair, Lay member)
Jonathan Coombes (Registrant member)
Gill Mullen (Lay member)

Legal Assessor: John Bromley-Davenport KC

Hearings Coordinator: Dilay Bekteshi

Facts proved: All

Facts not proved: N/A

Fitness to practise: Impaired

Sanction: Striking-off order

Interim order: Interim suspension order (18 months)

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that that the Notice of Meeting had been sent to Mrs Shahid's registered email address by secure email on 30 January 2024.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, and that a panel will be considering Ms Shahid's case on or after 5 March 2024.

In the light of all of the information available, the panel was satisfied that Mrs Shahid 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).

Upon acknowledging specific concerns highlighted in the bundle provided, the panel made enquires in relation to Mrs Shahid's [PRIVATE] in order to ensure fairness to both Mrs Shahid and the NMC. Following communication facilitated by the NMC Case Coordinator with Mrs Shahid, the panel obtained updates which reassured it that it was fair to proceed with the substantive meeting moving forward.

Details of charge

That You, a Registered Nurse;

- 1. On or about 12 August 2018 submitted to Medsol Healthcare Ltd a document purporting to be a reference from Person A which was false*
- 2. On or about 23 October 2020 submitted to Belmont Recruitment and/or Medacs Healthcare a document purporting to be a reference from Person A which was false*

3. On or about 23 October 2020 submitted to Belmont Recruitment and/or Medacs Healthcare a document purporting to be a reference from Person B which was false

4. Your actions at 1 and/or 2 and/or 3 above were dishonest in that you were representing as a genuine a document which you knew to be false.

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

Background

The NMC received a referral from Blackpool Teaching Hospital NHS Foundation Trust ('the Trust'). The alleged facts are as follows:

Mrs Shahid worked with the Advanced Clinical Practitioner ('ACP'), Person A, in 2012-2013 in the Assessment and Rehabilitation Centre based at the Trust. She was an Agency Nurse and the ACP was the Clinical Nurse Manager and her line manager at the time.

The Compliance Officer ('CO') at Medsol Health Care Limited ('Medsol'), contacted Person A on 4 July 2019. The CO asked that the ACP confirm that the reference they supplied to them about Mrs Shahid on 12 August 2018, still applied. Person A told Medsol that they were not the author of that reference.

On 27 October 2020, Person A received an email from, Medacs Nursing, asking them to confirm that they had provided a reference for Mrs Shahid to Belmont Agency ('Belmont'). Medacs were seeking to approve Mrs Shahid as a nurse to work for the Trust via Belmont.

Person A replied that they had not written such a reference and that this was the second time this had occurred. Person A referred Mrs Shahid to the NMC.

In communication with the NMC, Mrs Shahid had admitted use of the false reference from Person A.

On 2 December 2020, Belmont recruitment provided copies of two references to the NMC. One was the reference from Person A, the second was from Person B.

The allegation about the reference from Person A was put to Mrs Shahid, who made admissions in relation to it. Mrs Shahid described her use of that false reference as a lapse of judgement, outlined the difficulties in agency nurses obtaining references and attributed her actions in part to her admiration for Person A.

Subsequently, the NMC contacted Person B who stated that the purported reference from them is also false, and that they do not know Mrs Shahid.

Decision and reasons on facts

In reaching its decisions on the facts, the panel took into account all the documentary evidence in this case together with the representations made by the NMC.

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 had regard to the written statements and exhibits of the following witnesses on behalf of the NMC:

- Person A: Clinical Nurse Manager in the Assessment and Rehabilitation Centre at the time
- Person B: Band 5 nurse at Blackpool Teaching Hospitals NHS Foundation Trust at the time

The panel had no submissions before it from Mrs Shahid.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor.

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

Charge 1)

1. *On or about 12 August 2018 submitted to Medsol Healthcare Ltd a document purporting to be a reference from Person A which was false*

This charge is found proved.

The panel took into account Person A's witness statement, detailing their professional relationship with Mrs Shahid in 2012-2013 at the Assessment and Rehabilitation Centre within the Trust. Person A, who was Mrs Shahid's line manager, said that while they worked together during that period, they have had no social interactions with Mrs Shahid outside of work.

Upon being alerted by the Compliance Officer at Medsol, on 4 July 2019, regarding a falsified employment reference attributed to Person A, concerns were raised as Person A had not provided such a reference. Following subsequent correspondence, including emails exchanged between Person A and Medsol, it became evident that the reference was fabricated without Person A's knowledge or consent.

Person A referred Mrs Shahid to the NMC on 10 November 2020, stating that they had never endorsed any employment reference for Mrs Shahid and had no recollection of being asked to do so.

The panel also considered Exhibit HW/1 and correspondence disclosing the falsified reference from Medsol, it was clear that Mrs Shahid had made the reference in Person A's name without their knowledge or consent.

The panel also noted that Mrs Shahid acknowledged her actions in an email to the NMC on 3 February 2021, expressing regret for the misunderstanding and attributing her

decision to the challenges of acquiring references as an agency nurse. Mrs Shahid said: *“Yes I did make the reference in [Person A]’s name and I’m extremely sorry for that. I did work with her and found her to be an excellent nurse. Strangely enough it was because I held her in high regard that I used her. I’m deeply sorry for causing [Person A] concern. It was never my intention. The reason I was put in the position of making the reference was because it is incredibly difficult to get references as an agency nurse. It’s not an excuse but a fact.”*

Based on the evidence that Person A had confirmed that she had no involvement in the reference creation process and Mrs Shahid’s own acceptance, the panel found charge 1) proved.

Charge 2)

2. *On or about 23 October 2020 submitted to Belmont Recruitment and/or Medacs Healthcare a document purporting to be a reference from Person A which was false*

This charge is found proved.

The panel took into account Person A's witness statement, that on 27 October 2020, they received an email from Ms 1 from Medacs Healthcare who had approached them to confirm a reference provided for Mrs Shahid to work through Belmont Agency at the Trust.

Person A had clarified over a phone call and subsequent email communication to Ms 1 that they had not endorsed any reference for Mrs Shahid and had not been in contact with her since 2013. Following these interactions, including emails exchanged with Medacs Healthcare and providing details of their previous experience with Medsol, Person A's efforts to address the issue were documented in Exhibit HW/2.

Subsequently, Person A referred this matter to the NMC in a letter dated 10 November 2020, reiterating their stance that they had never provided an employment reference for Mrs Shahid nor been approached by Mrs Shahid for such a reference.

The panel considered correspondence between Belmont and the NMC, dated 2 December 2020, which included a false reference attributed to Person A.

Mrs Shahid acknowledged her use of Person A's name in this instance, therefore the panel found charge 2) proved.

Charge 3)

3. *On or about 23 October 2020 submitted to Belmont Recruitment and/or Medacs Healthcare a document purporting to be a reference from Person B which was false*

This charge is found proved.

The panel took into account Person B's witness statement, that the reference attributed to them was fabricated. Denying any association with Mrs Shahid or Belmont Recruitment, Person B pointed out discrepancies within the reference, such as the incorrect nursing band level and the false claim of a longstanding professional relationship dating back to 1996. Consulting with colleagues at Remedy, an agency she was familiar with, yielded no recognition of Mrs Shahid's name or the referenced details.

The panel considered the exhibit provided by Person B, which included an email correspondence from Belmont to the NMC on 2 December 2020, attaching a false reference dated 23 October 2020 purportedly from Person B. Despite the absence of a response from Mrs Shahid regarding this specific charge involving Person B, the panel found evidence that Mrs Shahid had supplied Belmont with a false document presented as a reference from Person B. Therefore, the panel found charge 3) proved on the balance of probabilities.

Charge 4)

4. *Your actions at 1 and/or 2 and/or 3 above were dishonest in that you were representing as a genuine a document which you knew to be false.*

This charge is found proved.

The panel also considered the NMC Code of Conduct, the NMC Guidance on '*Making decisions on Dishonesty charges*', as well as the test set out in the case of *Ivey v Genting Casinos (UK) Ltd [2017] UKSC 67*.

The panel considered the first part of the Ivey test. It had to consider what Mrs Shahid's genuine state of mind was when she carried out these acts.

The panel bore in mind that the NMC Code of Conduct. The panel noted that Mrs Shahid accepted the concerns and stated that she made a reference in Person A's name and that she is extremely sorry for that. She also stated that the reason she was put in the position of making the reference was because it was difficult to get references as an agency nurse. She also stated that it was a lapse of her usually high standards.

The panel determined that there was no alternative, innocent, explanation for Mrs Shahid submitting documents purporting to be a reference from Person A and Person B on three occasions between 2018 and 2020. Mrs Shahid must have known that presenting documents as genuine when she was fully aware they were false, was a dishonest act.

The panel was of the view that Mrs Shahid's actions would be considered dishonest by ordinary decent members of the public, fully aware of all the facts of this case. Therefore, the panel found charge 4) 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 Mrs Shahid's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no

burden or standard of proof at this stage and it has therefore exercised its own professional judgement.

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

Representations on misconduct and impairment

The panel took into account the NMC's representations on misconduct and impairment, which states:

"14. The comments of Lord Clyde in Roylance v General Medical Council [1999] UKPC 16 may provide some assistance when seeking to define misconduct: [331B-E] Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rule and standards ordinarily required to be followed by a [nurse] practitioner in the particular circumstances'.

15. As may the comments of Jackson J in Calheam v GMC [2007] EWHC 2606 (Admin) and Collins J in Nandi v General Medical Council [2004] EWHC 2317 (Admin), respectively '[Misconduct] connotes a serious breach which indicates that the doctor's (nurse's) fitness to practise is impaired'.

And

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

The NMC Code

16. *Where the acts or omissions of a registered nurse are in question, what would be proper in the circumstances (per Roylance) can be determined by having reference to the Nursing and Midwifery Council's Code of Conduct.*

17. *The NMC consider the following provisions of The Code: Professional standards of practice and behavior for nurses and midwives (2015) ("the Code") have been breached in this case:*

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

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

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

18. *The issue of dishonesty is dealt with in some detail within NMC guidance in terms of seriousness. SAN-2 explains that dishonesty is a concern that is more difficult to put right and it is likely that action will be necessary to uphold public confidence in nurses or to promote proper professional standards.*

19. *Honesty is of central importance to a nurse's practice and in this case the dishonesty was work-related. It involved a premeditated, relatively sophisticated and systematic deception in relation to the fabrication of employment references, with a view to obtaining employment and accordingly financial gain.*

20. *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?"*

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

22. *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.*

23. When determining whether the Registrant's fitness to practise is impaired, 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. Those questions were:

1. has [the Registrant] 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
2. has [the Registrant] in the past brought and/or is liable in the future to bring the [nursing] profession into disrepute; and/or
3. has [the Registrant] 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
4. has [the Registrant] in the past acted dishonestly and/or is liable to act dishonestly in the future.

24. It is the submission of the NMC that limbs 2, 3 and 4 of the "Shipman test" are engaged in the circumstances of this case. Serious dishonesty as demonstrated by Mrs Shahid (work-related for financial gain) has brought the nursing profession into disrepute. Honesty has been described as the bedrock of nursing and the actions of the Registrant undermine the promotion of professionalism and trust and constitute a breach of one of the fundamental tenets of the nursing profession. In the absence of genuine remorse, reflection, insight and strengthening of practice, there is every reason to consider that the dishonest conduct is liable to be repeated in the future.

25. Impairment is a forward thinking exercise which looks at the risk the registrant's practice poses in the future. NMC guidance adopts the approach of Silber J in the case of R (on application of Cohen) v General Medical Council [2008] EWHC 581 (Admin) by asking the questions whether the concern is easily remediable, whether it has in fact been remedied and whether it is highly unlikely to be repeated.

26. When considering the level of future risk it is important for us to review the full circumstances of the case. The first question to consider is whether the concerns can be addressed. The NMC's guidance 'Can the concern be addressed' (FTP-13a) states that:

“Examples of conduct which may not be possible to address, and where steps such as training courses or supervision at work are unlikely to address the concerns include: dishonesty, particularly if it was serious and sustained over a period of time, or directly linked to the nurse, midwife or nursing associate’s practice

27. In this case, Mrs Shahid provided false employment references for financial gain. Therefore, steps such as training courses or supervision at work cannot address the concerns.

28. Further, the effect of such acts is to undermine proper safety in practice because it undermines an accurate assessment of a Registrant’s suitability for a role involving patient care in the course of the recruitment process.

29. The second question to ask is whether the concern has been addressed. The NMC must not only consider whether Mrs Shahid has shown any insight but need to assess the quality and nature of the insight.

30. In this case, Yvonne Shahid could be said to have demonstrated some insight by her initial admission of guilt and subsequent reflective account discussing her position with regard to the potential impact of her dishonesty patients, employers, and the reputation of the profession. However, that is to some extent undermined by two aspects of the case.

31. Firstly, the representation that there was a ‘lapse of judgement’ cannot be taken to mean that there was a one off failure in judgement: it is clear these were relatively sophisticated, premediated acts: they took place on more than one occasion.

32. Secondly, the representation that there was a ‘lapse of judgement’ cannot be taken to mean that the failure was only in respect of or attributable to a high opinion of one colleague; a second false reference was used in the name of a professional who did not know Yvonne Shahid.

33. Rather, the Panel are invited to consider whether the representations of Yvonne Shahid incorporate an attempt to minimise the seriousness of the misconduct by presenting it as less premeditated or sophisticated than it in fact was.

34. The final question to ask is whether it is unlikely that the conduct will be repeated. Given the circumstances in this case and the lack of significant insight, there remains a high risk that Mrs Shahid conduct is likely to be repeated if there is no restriction is placed on her practise.

Public interest

35. In *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin) at paragraph 74 Cox J commented that:

“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.”

36. Consideration of the public interest therefore requires the Fitness to Practise Committee to decide whether a finding of impairment is needed to uphold proper professional standards and conduct and/ or to maintain public confidence in the profession.

37. In upholding proper professional standards and conduct and maintaining public confidence in the profession, the Fitness to Practise Committee will need to consider whether the concern is easy to put right. For example, it might be possible to address clinical errors with suitable training. A concern which hasn't been put right is likely to require a finding of impairment to uphold professional standards and maintain public confidence.

38. However, there are types of concerns that are so serious that, even if the professional addresses the behaviour, a finding of impairment is required either to uphold proper professional standards and conduct or to maintain public confidence in the profession.

39. In respect of public interest, reference is made to the NMC's guidance on serious concerns based on public confidence or professional standards (FTP-3c). The guidance states that: "Sometimes we may need to take regulatory action against a nurse, midwife or nursing associate because of our objectives to promote and maintain professional standards and the public's trust and confidence in nurses, midwives and nursing associates. We may also need to take action in cases where the concerns were not directly related to the care the nurse, midwife or nursing associate provided to people, but which call into question the basics of their professionalism".

40. Honesty and integrity engender trust and confidence in the nursing profession. Members of the public need to have confidence that they and their loved ones will be treated by a nurse in whom they can place confidence and trust. The NMC needs to take regulatory action in this case as serious dishonesty has called into question the basics of Mrs Shahid's professionalism.

The panel had no written representations before it from Mrs Shahid.

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

Decision and reasons on misconduct

In coming to its decision, the panel had regard to the case of *Roylance v GMC (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.'

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

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

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

20.2 act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment

...

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel considered Mrs Shahid's submission of references allegedly from Person A and Person B, as a serious deviation from the standards expected of a registered nurse. Nurses are expected to demonstrate honesty at all times, especially when applying for a job. The panel determined that Mrs Shahid's actions were serious and that they would be considered deplorable by fellow practitioners. The panel also noted that it was not an isolated incident but involved the presentation of three dishonest references from two individuals who had not supplied them.

The panel considered that honesty is a core value in the nursing profession, and in this instance, Mrs Shahid's dishonesty was directly related to work. Mrs Shahid's deliberate and systematic falsification of employment references for personal gain was considered by the panel as a serious departure of professional standards. Consequently, the panel decided that Mrs Shahid's actions did fall seriously short of the conduct expected of a nurse and her actions in the charges, individually and collectively, amount to misconduct.

Decision and reasons on impairment

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

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

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

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

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

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

a) ...

b) *has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*

- c) *has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d) *has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

The panel considered that limbs b, c and d were engaged by Mrs Shahid's past actions. The panel had regard to the fact that honesty and integrity is a bedrock of the nursing profession. The panel considered that Mrs Shahid's sustained and premeditated dishonesty, over a two-year period, brought the profession into disrepute, and breached fundamental tenets of the profession. The panel considered that there was no evidence of any concerns with Mrs Shahid's clinical practice, and therefore determined a finding of impairment was not necessary on public protection grounds.

The panel went on to consider whether Mrs Shahid was liable to bring the profession into disrepute, to breach fundamental tenets of the profession and to act dishonestly in the future. In doing so, the panel assessed Mrs Shahid's levels of insight, remorse and remediation.

The panel noted that dishonesty is difficult to remediate, and therefore assessed Mrs Shahid's level of reflection into her conduct, to consider whether it could be satisfied that this would not be repeated in the future. The panel noted that Mrs Shahid has acknowledged and accepted concerns regarding Person A. She admitted to including the Person A's name as a reference and expressed remorse for her actions. Mrs Shahid also stated that she worked closely with Person A and admired her exceptional nursing skills, which influenced her decision to use her as a reference and that her intention was never to cause distress to Person A. Mrs Shahid also stated that the challenges of obtaining references as an agency nurse put her in a difficult position. However, the panel determined that Mrs Shahid's reflection revealed limited insight, with no further evidence of remediation provided, the panel concluded that Mrs Shahid had not adequately addressed her misconduct and was liable to repeat this behaviour in the future.

The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health safety and wellbeing of the public and patients, and to uphold and protect the wider public interest, which includes promoting and maintaining public confidence in the nursing profession and upholding the proper professional standards for members of the profession. The panel considered that members of the public would be dismayed to learn that a nurse, responsible for providing care to patients, had submitted documents purporting to be references from Person A and Person B which were false. Given the seriousness of Mrs Shahid's premeditated dishonesty in this case, the panel determined that a finding of impairment on public interest grounds was required, in order to maintain public confidence in the nursing profession and in the NMC as a regulator, and in order to uphold proper professional standards of conduct.

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

Sanction

The panel has considered this case carefully and has decided to make a striking-off order. It directs the registrar to strike Mrs Shahid's name from the register. The effect of this order is that the NMC register will show that Mrs Shahid has been struck-off the register.

In reaching this decision, the panel has had regard to all the evidence that has been provided 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 took into account the NMC's written representation on sanction, which states:

"41. All NMC guidance in relation to sanctions has been considered before submitting that the appropriate and proportionate sanction in this case is one of a striking-off order."

42. In respect of SAN-1 the NMC would cite “a pattern of misconduct over a period of time” as an aggravating feature together with a “lack of insight into failings”. In limited mitigation Mrs Shahid admitted the dishonesty matters but has not responded to the NMC’s charges and the Case Management Form has not been returned.

43. SAN-2 makes it clear that a nurse who has acted dishonestly will always be at some risk of being removed from the register. The NMC notes that the misconduct was work-related and in pursuit of financial gain through employment as a nurse.

44. The NMC has considered the available sanctions in ascending order of seriousness.

No action or a caution order

45. Taking into account our sanction guidance SAN-3a and SAN-3b, these sanctions are inappropriate because (1) there is a need to secure public trust in nurses and to promote and maintain proper professional standards and conduct and (2) the case is not at the lower end of the spectrum of impaired fitness to practise.

Conditions of practice

46. With reference to SAN-3c the NMC would submit that there are no identifiable areas of the nurse’s practice in need of assessment and/or retraining; and that no conditions could be formulated to guard against the type of misconduct present in this case namely serious, repeated acts of dishonesty.

A suspension order

47. With reference to SAN-3d, a suspension order is only appropriate where a registrant has insight and does not pose a risk of repeating behaviour. This case involves attitudinal issues namely serious dishonesty for financial gain and is not limited to a single isolated incident of misconduct. There is little material to evidence remorse, reflection, insight, or remediation and therefore there is every risk of

repeating behaviour. A period of suspension would not reflect the gravity and seriousness of Mrs Shahid's actions nor adequately address the relevant public interest considerations.

A striking off order

48. The NMC guidance SAN-3e makes it clear that a striking-off order is appropriate when the registrant's actions are incompatible with continued registration and when such an order is the only sanction which will be sufficient to maintain professional standards. It is submitted in the circumstances of this case, concerning false documents with false signatures, public confidence in nurses can only be maintained by removal from the register. In particular, as stated above, the misconduct took place more than once, more than one fellow professional's name was used, and it was both premeditated and relatively sophisticated. Further, as stated above, it undermines safe practice by compromising effective appointment of nurses to roles."

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- Abuse of position of trust.
- This case involved premeditated dishonesty over a two-year period with a potential for financial gain.
- Limited insight into misconduct.

The panel also took into account the following mitigating features:

- [PRIVATE].
- She acknowledged her mistakes, expressed remorse, and apologised for certain aspects of her behaviour.

Mrs Shahid said that she has had an unblemished 46-year career as a nurse with no prior referrals.

The panel then went on to assess the seriousness of the dishonesty in this case. The panel had regard to the SG for cases involving dishonesty. The panel considered that this was not a one-off episode of dishonesty, nor was it opportunistic or spontaneous. The panel considered that the dishonesty was premeditated and took place on more than one occasion. As such, the panel determined that the dishonesty in this case fell at the higher end of the spectrum of seriousness.

The panel then went on to consider what action, if any, it should take in this case.

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 Mrs Shahid's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mrs Shahid'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 to impose a conditions of practice order. The panel was of the view that this was not a case where there were identifiable areas of Mrs Shahid's clinical practice in need of training and remediation. Indeed, there were no

concerns regarding Mrs Shahid's clinical practice. The panel noted that the misconduct in this case involved serious dishonesty. As such, the panel considered that it was not possible to formulate practicable and workable conditions as the misconduct was inherently linked to Mrs Shahid's behaviour. Furthermore, given the seriousness of Mrs Shahid's misconduct, the panel determined that imposing a conditions of practice order would not satisfy the public interest in this case.

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 panel determined that these factors were not present in this case.

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Mrs Shahid's dishonest actions is fundamentally incompatible with Mrs Shahid remaining on the register. Therefore, 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?*

Mrs Shahid's actions were significant departures from the standards expected of a registered nurse and are fundamentally incompatible with her remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Mrs Shahid's actions were serious and to allow her to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

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 Mrs Shahid's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct himself, the panel has concluded that nothing short of this would be sufficient in this case.

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

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Mrs Shahid'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 into account the NMC's written representations on interim order, which states:

“If a finding is made that the Registrant’s fitness to practise is impaired on a public protection basis is made and a restrictive sanction imposed the NMC submit that an interim order in the same terms as the substantive order should be imposed for 18 months on the basis that it is necessary for the protection of the public and otherwise in the public interest.

If a finding is made that the Registrant’s fitness to practise is impaired on a public interest only basis and that their conduct was fundamentally incompatible with continued Registrant, an interim order of suspension for 18 months should be imposed on the basis that it is otherwise in the public interest.

That is in order to provide for the gap between the making of any substantive order and closure of the statutory appeal window or any actual appeal. Should no appeal be lodged or an appeal be resolved, that interim order would fall away.”

Decision and reasons on interim order

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

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

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

That concludes this determination.