Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Wednesday 21 – Friday 23 February 2024

Virtual Hearing

Name of Registrant:	**David John Ainsworth**
NMC PIN:	91I4846E
Part(s) of the register:	Registered Nurse – Sub Part 1 Adult Nursing (Level 1) – 17 October 1994
Relevant Location:	Nottinghamshire
Type of case:	Misconduct
Panel members:	Dale Simon (Chair, Lay member) Susan Field (Registrant member) Keith Murray (Lay member)
Legal Assessor:	Richard Ferry-Swainson
Hearings Coordinator:	Khadija Patwary
Nursing and Midwifery Council:	Represented by Simeon Wallis, Case Presenter
Mr Ainsworth:	Present and unrepresented
Facts proved:	All proved by admission
Fitness to practise:	Impaired
Sanction:	**Suspension order (12 months)**
Interim order:	**Interim suspension order (18 months)**

Details of charge

That you, a registered nurse:

1) Following an incident involving the referral of Patient C to Sherwood Forest Hospital on 24 November 2018: **(proved in its entirety by admission)**
   a) Incorrectly informed hospital staff that you were on duty for NEMS when the referral of Patient C was made;
   b) During the internal investigation, incorrectly stated the referral had been part of an undercover CCG pilot.

2) Your actions in charge 1)a) above were dishonest as you knew you had not started your shift with NEMS when the referral of Patient C was made. **(proved by admission)**

3) Your actions in charge 1)b) were dishonest in that:
   a) You knew there was no undercover CCG pilot, alternatively. **(proved by admission)**
   b) You knew Patient C's referral was not part of any undercover CCG pilot. **(charge 3)b) fell away since it was alleged in the alternative)**

4) On 5 September 2019 failed to adequately assess Patient B's condition in that you:
   a) Failed to notice and/or act upon: **(proved in its entirety by admission)**
      i) Sodium level of 120
      ii) Urea level of 9.4
      iii) Creatine level of 118
      iv) GFR level of 40
      v) C reactive protein level of 31

5) As a result of your failures in charge 4 a) above: **(proved in its entirety by admission)**
   a) Inappropriately commenced Patient B on the potassium hyperkalaemia pathway;
   b) Failed to contact the emergency department and/or renal team.

6) During the local investigation into the matters alleged in charges 4 and 5 above, incorrectly stated that you could not and/or did not see the levels noted in charge 4) a) i) ii) iii) iv) and v). **(proved by admission)**

7) Incorrectly recorded in Patient B's clinical notes that the raised potassium level was an artefact. **(proved by admission)**

8) Your actions in charges 6 and 7 were dishonest as you knew you had either failed to check and/or failed to notice the raised levels noted in charge 4) a) i) ii) iii) iv) and v). **(proved by admission)**

9) On 22 January 2019, in relation to Patient A: **(proved in its entirety by admission)**
   a) Failed to identify and/or act upon signs that Patient A required urgent medical assessment.
   b) Incorrectly recorded that Patient A's mother:
      i) Had informed you that a rash blanched when pressure was applied;
      ii) Had declined to bring Patient A to the NEMS base.

10) Your actions in charge 9 b) i) were dishonest in that you knew Patient A's mother had informed you the rash did not blanch when pressure was applied. **(proved by admission)**

11) Your actions in charge 9 b) ii) were dishonest in that you knew Patient A's mother had not declined to bring Patient A to the NEMS base. **(proved by admission)**

12) On dates (unknown) in 2019, failed to use PGD's consistently in that you: **(proved in its entirety by admission)**
    a) Issued the incorrect size and/or duration of medication pack;
    b) Failed to use the PGD button;
    c) Failed to document in the notes:
        i) Drug name;
        ii) Dosage;
        iii) Duration

13) On dates (unknown) in 2019, failed to keep adequate records in that you: **(proved in its entirety by admission)**
    a) Failed to document the drug given to a patient via PGD.
    b) Failed to document sufficient details of patient history.

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

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

At the outset of the hearing, Mr Wallis made a request that this hearing be held partly in private on the basis that proper exploration of your case involves references to [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

You supported the application.

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.

Having heard that there may be references to [PRIVATE], the panel determined to hold parts of the hearing in private in order to [PRIVATE] of those matters. The panel was satisfied that these considerations justify that course, and that this outweighs any prejudice to the general principle of hearings being in public.

Background

080061/2020

You were referred to the NMC on 1 October 2020 by the Director of Resources, Nottingham Emergency Medical Services (NEMS). At the time of the alleged concerns, you were working for NEMS as a registered nurse and Clinical Team Leader within their out of hours primary care service.

On 22 January 2019, you missed red flags of sepsis for Patient A. Patient A was a child and had been unwell for a number of days. During the phone call with Patient A's mother, you gave wrong clinical information and sent them to the pharmacy instead of asking them to come and have a full review. You also failed to make an accurate recording of this conversation and documented that Patient A's rash "*did fade,*" when Patient A's mother said the opposite, and that Patient A's mother declined to come in for a review when she did not.

On 5 September 2019, you interpreted high potassium blood results for Patient B as incorrect rather than carry out a full assessment. You also failed to interpret the rest of Patient B's blood results which were showing that Patient B was critically unwell. You asked Patient B to attend for a repeat blood test when they should have been asked to go to A&E immediately. When Patient B attended for a further blood test, a colleague identified that this was a life-threatening condition and called for an ambulance. Following your call with Patient B, you failed to complete an accurate record of this.

During the local investigation into Patient B's care, you said that you could not see all the results for Patient B. This is disputed by a colleague who said that you would have had access to all of Patient B's blood results. Audits of your record keeping were conducted on 9 and 21 October 2021 and it was found that you had failed to use the Patient Group Directive (PGD) consistently and that you failed to keep adequate records as detailed in charges 12) and 13).

076370/2020

On 20 January 2020, you made a self-referral to the NMC.

At the time these concerns arose, you were working for NEMS as a registered nurse and Clinical Team Leader within their out of hours primary care service as well as holding a position with the local Clinical Commissioning Group (CCG).

On 24 November 2018, you referred a colleague of yours from the CCG, Patient C, to Sherwood Forest Hospital (the Hospital) and at the time of the referral, you spoke to a surgical registrar and requested a second opinion for Patient C who was in discomfort post-surgery. You failed to complete any referral paperwork for Patient C and so when they arrived at the hospital, no one was expecting them and they had over a four hour wait to be seen.

Patient C had confirmed to the Hospital staff that you had referred them. The Hospital staff then contacted you and when you were questioned about Patient C presenting to the Hospital, you provided conflicting information over the phone and misled them about your position and the referral.

You told a colleague at the Hospital that the referral had come from you in your position in NEMS. However, at the time of the referral for Patient C you were not scheduled to be working for NEMS. You told another colleague that you referred Patient C in as part of your CCG work and an undercover pilot to look at referral pathways. Due to your failing to complete referral paperwork, an incident report was created. You asked for the incident form to be sent to you in your role as commissioner for the CCG. However, this was not normal practice and went outside of procedure.

You subsequently resigned from both your NEMS and CCG role.

Decision and reasons on facts

At the outset of the hearing, the panel heard from you that you made full admissions to charges 1) to 13).

The panel therefore finds charges 1) to 13) proved in their entirety, by way of your admissions.

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 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, your fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

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

Mr Wallis invited the panel to take the view that the facts found proved amount to misconduct. He directed the panel to the terms of ''The Code: Professional standards of practice and behaviour for nurses, midwives and nursing associates (2018) (the Code) and to the specific paragraphs where, in the NMC's view, your actions amounted to a breach of those standards.

Mr Wallis submitted that the dishonesty in this case was not limited to a single occasion, it was in three different incidents over a period of several months. He submitted that these incidents were all linked to your practice as a nurse and in a situation where you occupied positions of seniority or authority at both NEMS and at the CCG. Mr Wallis submitted that charges 1) to 3) involve an occasion whereby you misused your position.

Mr Wallis submitted that your actions were serious and effectively an attempt to evade responsibility for situations in which a direct risk of harm to patients had been created by an error of your judgement even though no harm was materialised. He submitted that your record of your conversation with Patient A's mother was a fabrication. He further submitted that in relation to Patient B you had stated you were only able to see the potassium results however, you now accept that you were able to see all of the various blood results that were documented in the patient notes.

Mr Wallis submitted that your interaction with Patient C was the most serious concern in regard to your dishonesty as you had tried to persuade those reviewing the incident that nothing had gone wrong. He submitted that taking all of these factors together your dishonesty is on the higher end of the spectrum. Mr Wallis submitted that you do not have proper insight into your clinical failings and that these were errors of judgement by a senior practitioner.

Submissions on impairment

Mr Wallis 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 case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Mr Wallis submitted that you are currently impaired due to your dishonesty which was repeated over a period of time. He submitted that there is a risk of repetition as there is a pattern of you acting dishonestly when [PRIVATE]. He submitted that you have provided details of a number of professional accomplishments that highlight your wide and strong skill sets but this does not provide the panel with evidence upon which it can reach a conclusion that the risk of repetition of dishonesty in a clinical setting has been addressed.

Mr Wallis submitted that although you cooperated with the local investigation you did not accept the concerns raised. He directed the panel to consider your evidence in which you had explained your clinical decisions and asserted that you did not intend to mislead anyone and that you are not a dishonest person. [PRIVATE]. He submitted that you did not address the panel on the risk to the patients, the impact of your dishonesty in a clinical setting and acceptance that you had done something wrong.

Mr Wallis submitted that even though direct harm was not caused to Patient A, you had incorrectly sent a child with clear symptoms commonly associated with a serious condition namely sepsis for inadequate care to an inappropriate location. He submitted that this error is serious. He referred the panel to Dr 1's witness statement in which she stated that you had effectively put your judgement above your patients. He submitted that your insight is limited, and it is well short of what is necessary to remediate concerns of this nature. Mr Wallis directed the panel to your various testimonials in which it was made clear by you that the majority of the authors were not aware of you admitting charges of dishonesty in these proceedings. He submitted that you were not clear and forthcoming to the authors of the testimonials however, as you are unrepresented you might have not realised the extent of disclosure that was required from you to the authors of those testimonials. For these reasons he invited the panel to give very little weight to these testimonials.

The panel heard evidence from you under affirmation. You referred the panel to your professional accomplishments since resigning from NEMS and CCG. You had worked in a clinical role for an agency for two years whilst subject to an interim conditions of practice order on your registration without incident. You referred the panel to your numerous positive testimonials about your honesty and integrity, [PRIVATE], the difficult working environment at NEMS at the time of these incidents and the fact that no harm had been caused to patients as a result of your actions and that no patient had made a complaint against you.

In response to questions from Mr Wallis you accepted the impact of your actions on patients, colleagues and the wider public and expressed regret for your actions.

In your closing submissions you stated that you have acknowledged and admitted the charges against you and that you understand and accept the severity of the risk that's been described. You stated that you understand the potential harm that could have occurred from the circumstances in the case. You stated that you are not a dishonest person and that you have been a nurse for 30 years as you had qualified in 1994. You told the panel that you had an unblemished career from 1994 to 2018 and that there have

been no other concerns raised. You said that you are now in a different working environment and are able to engage well with your new organisation.

[PRIVATE]. You told the panel that no patient harm occurred in any of the concerns raised and that your reflection might not be as strong as it could have been due to you being unrepresented. You stated that your testimonials are factual of your character and that these should not be "*dumbed*" down as these are individuals in significant roles who do not need to write nice things about you. You referred the panel to a testimonial by the Chief Nurse at the Hospital who has been meeting you weekly as part of your remediation and reflection every Friday morning and who has worked alongside you as a fellow Executive Trust Board Member. He has stated that you are a valued colleague who is supportive, kind and considerate.

You said that you are a proud registered nurse and that there has been no repeated dishonesty in a clinical sitting and that you care immensely for the NHS.

The panel accepted the advice of the legal assessor.

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:

*'**8 Work co-operatively***

To achieve this, you must:

8.2 maintain effective communication with colleagues

8.3 keep colleagues informed when you are sharing the care of individuals with other health and care professionals and staff

10 Keep clear and accurate records relevant to your practice

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

To achieve this, you must:

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

10.2 identify any risks or problems that have arisen and the steps taken to deal with them, so that colleagues who use the records have all the information they need

10.3 complete records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements

13 Recognise and work within the limits of your competence

To achieve this, you must, as appropriate:

13.1 accurately identify, observe and assess signs of normal or worsening physical and mental health in the person receiving care

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

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

To achieve this, you must:

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

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'

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel found that your actions with respect to charges 1) to 13) did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

With regards to charges 1) to 11), the panel was of the view that your behaviour amounted to misconduct. It bore in mind that you were a senior nurse in a position of authority and that there were three separate incidents of dishonesty over a period of months. The panel was also of the view that your failure to respond appropriately to clear signs of sepsis in respect of Patient A and your failure to check all of the results for Patient B given their high potassium levels, amounted to serious departures from the standards expected of a registered nurse and patients at risk of harm.

The panel determined that your actions would by the standards of ordinary people, and fellow professional nurses, be judged to be deplorable, falling far below the standard expected of a registered nurse.

With regard to charges 12) and 13), the panel was of the view that your behaviour amounted to misconduct. It considered that accurate medication management is a fundamental tenet of the nursing profession. In not documenting the drug name, dosage, duration and patient history this posed a significant risk to the patients in terms of their treatment plan and the care they may receive as other healthcare professionals who viewed the patient notes would not have the full information of the patients treatment. The panel considered your actions fell significantly short of the conduct and standards expected of a registered 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.

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

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

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

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

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

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

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

c) *has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*

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

The panel considered that limbs a), b), c) and d) were engaged. The panel finds that patients were put at risk of harm as a result of your misconduct. Your misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute and you had acted dishonestly. The panel then went on to consider whether there is a risk of repetition and in doing so it assessed your current insight, remorse and remediation.

Regarding insight, the panel determined that your insight is developing.

In relation to your clinical misconduct, the panel had regard to your training certificates and the fact that you had worked for two years in a clinical setting without issue following your resignation from NEMS and the CCG. It considered that you had taken steps to strengthen your practice; however, your reflective piece made no reference to the failings in your clinical practice; and during your oral evidence you sought to deflect responsibility and justify your poor clinical practice suggesting that as no harm had come to Patient A and Patient B your decisions may have been appropriate. This assertion was challenged by Mr Wallis during cross-examination and only then did you accept that the absence of a more serious outcome for these patients was due to luck rather than your actions. The panel also had regard to the statement of Dr 1 which said, "*you had effectively put your*

judgement above your patients". In light of this the panel determined that your insight into the failings in your clinical practice is developing but remains limited and as such there is a real risk of repetition if you returned to clinical practice at this time.

In relation to your dishonesty the panel noted that your insight is limited as you did not recognise how your conduct had impacted negatively on the reputation of the nursing profession or the patients and that you have not demonstrated an understanding of the serious nature of your actions. Whilst acknowledging that you do not have the benefit of legal representation, the panel was nonetheless surprised that you were able to produce an extensive bundle of material in response to the NMC's case, which contained limited reflection on or reference to the matters alleged against you. The panel did take into account the testimonials you provided in relation to your honesty and integrity, however it gave these limited weight since you told the panel that you had not informed most of the authors that you were going to be admitting significant allegations of dishonest behaviour.

In relation to remorse, the panel noted that you did not express a clear understanding of how what you did was wrong or how this impacted negatively on the reputation of the nursing profession. The panel noted that you had stated that you accept the charges and that you were dishonest; however, you failed, in the panel's view, to adequately address the issue of insight into your dishonesty.

The panel was of the view that it can be difficult to remediate dishonesty and the starting point is to have good insight into your dishonest behaviour, which at the moment the panel considers is lacking. The panel was of the view that even though you had provided it with a detailed registrant's response bundle, it had limited evidence to demonstrate any insight or remorse into your dishonesty. It noted to your credit that you admitted what you had done wrong when you were directly questioned by Mr Wallis during cross examination. However, this was not enough to persuade the panel that you have real insight into the impact of your dishonest behaviour. Accordingly, the panel is concerned that if faced with a similar situation in the future you may once again resort to lying in an attempt to cover up your wrongdoing. Dishonest behaviour impacts on patient care and together with the

clinical failings found proved and admitted by you in this case, pose a real ongoing risk of patient harm. The panel therefore decided that a finding of current impairment is necessary on the grounds of public protection.

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

The panel was of the view that a finding of current impairment on public interest grounds is required in this case in order to maintain public confidence in the profession. You circumvented proper process in order to fast-track a colleague through the emergency care system and, even if done for altruistic motives, this was still an abuse of your position. You failed to make appropriate referrals in the case of a child who could have had sepsis, a life-threatening condition, and an adult with raised potassium levels, who could have gone into cardiac arrest, again a life threatening condition. These were very serious failures that were then significantly compounded by your dishonest actions in attempting to cover up your behaviour. The panel considered that in such circumstances public confidence would be seriously undermined if a finding of current impairment on public interest grounds were not made.

Having regard to all of the above, the panel determined that your fitness to practise is currently impaired on the grounds of public protection and public interest.

Sanction

The panel has considered this case very carefully and has decided to make a suspension order for a period of 12 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

Mr Wallis submitted that the NMC is proposing a striking off order on the grounds of public protection and in the wider public interest and that none of the other available sanctions are appropriate in this case. He submitted that taking no action in this case with the panel's reasoning at the previous stage will not be the appropriate sanction. A caution order or conditions of practice order will not be appropriate due to the concerns identified. Mr Wallis submitted that it is not clear that conditions can be imposed which will properly manage the risks identified from the panel's reasoning at the impairment stage as you have been faced with accusations in a situation where you had made a clinical misjudgement.

In relation to a suspension order, he submitted that the concerns identified in this case are not a single incident of misconduct and that there is evidence of harmful deep-seated personality or attitudinal problems. He submitted that this is a case where unfortunately the panel have no confidence that you have insight into your failings. He directed the panel to consider the extent of your insight in your documents provided which include your seven reflective pieces and that you have accepted at the end of cross examination your wrongdoings. Mr Wallis submitted that the three incidents taken together which formed the principal focus of the evidence at the impairment stage meet the test of imposing a striking off order. He submitted that striking off is the only sanction which will be sufficient to protect patients, members of the public or maintain professional standards.

Mr Wallis submitted that regrettably you had justified and minimised your behaviour and have demonstrated very little insight into the concerns of this case during cross examination. He submitted that your evidence provided does not reflect very much insight into the key issues that the panel has identified. [PRIVATE]. Mr Wallis submitted that the

public confidence in nurses cannot be maintained if you are not removed from the register and that a striking off order is the only sanction which will be sufficient to protect patients.

Mr Wallis submitted that you have informed the panel that you do not intend to return to clinical practice, and he directed for the panel to consider whether it is appropriate for you to remain on the register.

[PRIVATE].

[PRIVATE].

You told the panel that you know you have done wrong and that you are sorry to your patients and that this affected the reputation of nurses. You said that you made an attempt to give some context and now it looks like you were being defensive. You said that you are a normal person who tried to do a normal job and make a difference to people's lives. You said that you are valued and loved by people at your current job even though your PIN is not needed. You told the panel that you are happy to apply to have your PIN number removed from the register voluntarily, so you do not return to practice.

[PRIVATE]. You asked the panel members that when considering a sanction to give it appropriate consideration. You said that you have an entirely blemish free career of 33 years and that there is no evidence that you are a serially dishonest person.

As you had raised the possibility of applying to have your PIN removed voluntarily, you were directed to look at the NMC's guidance on making an application for Agreed Removal during the hearing. Having looked at that guidance, you decided not to make such an application.

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:

- Conduct which put patients at risk of unwarranted harm;
- Your actions had an impact on colleagues;
- You were not open and honest with the internal investigation;
- Misuse of position of authority;
- Limited insight into your failings; and
- A pattern of dishonesty over a period of time.

The panel also took into account the following mitigating features:

- You have engaged fully with your regulator;
- You have admitted all of the charges at the outset;
- Previous long and unblemished career as a nurse; and
- [PRIVATE].

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case and the public protection issues identified. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict 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. The panel took into account the SG, in particular:

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining; and*
- *No evidence of general incompetence.*

The panel is of the view that there are no practical or workable conditions that could be formulated, given the dishonesty in this case. The dishonesty identified in this case was not something that can be readily be addressed through retraining, but requires you to fully reflect on you behaviour and the impact of that behaviour on patients, colleagues, the profession and the wider public, who would likely view your behaviour as deplorable. Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case and would not protect the public.

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

- *No evidence of harmful deep-seated personality or attitudinal problems; and*
- *No evidence of repetition of behaviour since the incident.*

The panel was satisfied that in this case, the misconduct may not be fundamentally incompatible with remaining on the register. The panel recognises that this is not a single incident of dishonesty. However, the panel has no evidence of repetition of behaviour since the dishonest behaviour over four years ago was identified. The panel noted that you have provided evidence of subsequently working successfully in a clinical role for two years whilst subject to conditions and subsequently at a senior level, albeit in a non-clinical role.

The panel gave serious consideration to the imposition of an striking-off order in this case, given the panel concerns about your developing insight. However, the panel had regard to your submissions in which you stressed the fact that you were unrepresented and consequently has not expressed yourself as effectively as you otherwise might have done if you could afford representation. The panel therefore determined that the imposition of a suspension order would address the public interest and public protection concerns in this case and provide you with an opportunity to reflect fully on this case.

Balancing all of these factors the panel has concluded that a suspension order for 12 months would be the appropriate and proportionate sanction. This would reflect the seriousness of your misconduct and also allow you time to think very carefully about the impact of your behaviour and, in due course, to demonstrate to a reviewing panel that you do have the necessary insight to satisfy such a panel that you no longer represent a risk to patients. This will, however, require a much more focused piece of reflection aimed at the matters found proved, than has hitherto been provided. The panel noted the hardship such an order will inevitably cause you. However, this is outweighed by the need to protect the public and the public interest in this case.

The panel considered that this order is 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.

At the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case may be assisted by:

- Your continued engagement/attendance; and
- A much more focused reflective piece on the impact of your clinical decision making and subsequent dishonesty.

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

Submissions on interim order

The panel took account of the submissions made by Mr Wallis. He submitted that an interim suspension order should be imposed for a period of 18 months to cover the 28 day appeal period and the subsequent period should an appeal be lodged. He submitted that

this is necessary for the same reasons as given by the panel regarding the substantive order and should be on both public protection and public interest grounds.

You did not oppose the application.

Decision and reasons on interim order

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

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

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.