

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

**Substantive Meeting
Friday, 2 February 2024**

Virtual Meeting

Name of Registrant: Evelyn Dzavakwa

NMC PIN: 7211336E

Part(s) of the register: Registered Nurse – Sub part 1
Adult Nursing – 29 March 1976

Relevant Location: Cambridgeshire

Type of case: Conditional Caution (Police)

Panel members: Gregory Hammond (Chair, Lay member)
Angela O'Brien (Registrant member)
Asmita Naik (Lay member)

Legal Assessor: Charles Apthorp

Hearings Coordinator: Stanley Udealor

Facts proved: Charge 1

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 the Notice of Meeting had been sent to Ms Dzavakwa's last known email address which she had last used to communicate with the Nursing and Midwifery Council (NMC), by secure email on 5 December 2023.

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 the meeting was to be held virtually. It informed Ms Dzavakwa that she had until 3 January 2024 to supply any additional evidence or information and that a meeting would be held on or after 9 January 2024.

In the light of all of the information available, the panel was satisfied that Ms Dzavakwa 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).

Details of charge

That you, a registered nurse:

- 1) Received a conditional caution on 11 February 2021 from the police for offences of Theft by Employee contrary to section 1(1) Theft Act 1968 and Fraud by False representation contrary to section 2 of the Fraud Act 2006.

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

Background

The charge arose while Ms Dzavakwa was employed by Nuffield Health Cambridge from 1 February 2002 until 15 February 2021. On 5 February 2021, Ms Dzavakwa was referred to the NMC by the Matron at Nuffield Health Cambridge.

In June 2020, Ms Dzavakwa was working as a recovery nurse in Adult Surgical when Nuffield Health Cambridge reported missing private prescriptions and fraudulent prescriptions being presented to local pharmacies. A police investigation was conducted, and Close Circuit Television (CCTV) footage identified Ms Dzavakwa. She was then interviewed by the police in January 2021, and she admitted using the stolen prescriptions to obtain Co-codamol, Prednisolone and Naproxen for her own personal use. The thefts appear to have taken place over a period of some months between 30 September 2019 and May 2020. Eighteen fictitious prescriptions were identified and for each one Ms Dzavakwa created, she would have had to have used one of the prescriptions from the pad she had taken and written details of the drug, the prescriber, and the patient.

Nuffield Health Cambridge commenced disciplinary action, but Ms Dzavakwa resigned and expressed her intention to retire from the nursing profession. On 11 February 2021, Ms Dzavakwa received a police conditional caution for two offences – theft by employee and fraud by false representation.

Decision and reasons on facts

The charge arose from Ms Dzavakwa's conditional caution and, having been provided with a copy of the signed Conditional Caution and the Police Crime Report, the panel determined that the facts are found proved in accordance with Rule 31 (2) and (3).

Fitness to practise

Having made its findings on the facts, the panel then considered whether, on the basis of the facts found proved, Ms Dzavakwa's fitness to practise is currently impaired by reason of her caution. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

Representations on impairment

In its written representations, the NMC submitted that:

*'The NMC submit that through her dishonest actions that led to the issuing of the criminal caution, Ms Dzavekwa placed patients at risk of harm, brought her profession into disrepute and breached fundamental tenets of the profession and in so doing, breached the following principles of her **Code of Conduct**:*

5 Respect people's right to privacy and confidentiality

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

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

20 Uphold the reputation of your profession at all times

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

20.4 keep to the laws of the country in which you are practicing

21 Uphold your position as a registered nurse, midwife or nursing associate

21.3 act with honesty and integrity in any financial dealings you have with everyone you have a professional relationship with, including people in your care

10. 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?"

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

11. *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.*

12. *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.*

13. *The NMC submit that 1-4 can be answered in the affirmative in this case.*

14. *In agreeing to a conditional caution, Ms Dzavakwa has accepted that she stole prescription pads from her employer to obtain medication for her own personal use. In so doing, she appears to have taken on the management of her own health / pain management and mis-used patient information which she had access to via her role as recovery nurse, as well as the names of doctors who apparently also worked for Nuffield. Her conduct was dishonest and an abuse of the trust and responsibility placed in her by accessing the prescription pads in the way that she did. She also appears to have abused her access to patient confidential information to create credible medication requests, to avoid raising undue suspicion at the two pharmacies concerned.*

Public Protection

15. *Ms Dzavakwa's actions as a trusted nurse put patients at risk of harm. She stole prescription pads to obtain medication intended for others which compromised the integrity, safety and effectiveness of the prescription system. By misusing patient details and falsifying colleague's identification data, she placed patients at an unwarranted risk of harm by providing a false and/or inaccurate picture of their documented medical interventions, particularly in relation to their medication histories. Her actions also took away from resources meant for patients.....*

16. *Ms Dzavakwa' conduct was not isolated, but appears to have taken place over a period of months in 2019 and 2020. For each of the 18 fictitious prescriptions she created, she would have had to use one of the prescriptions from the pad she had taken, write patient details on there, as well as details of the drug and prescriber. This does not appear to have been a one-off error in judgment, but a calculated course of conduct involving multiple dishonest acts. It is submitted that this elevates risk due to an increased likelihood of repeat.*

17. *The NMC submit that by her actions, Ms Dzavakwa did place patients at unwarranted risk of harm.*

18. *Ms Dzavakwa has not fully engaged with the NMC investigation to include attempts to investigate her current health status / medication requirements / usage. She has not provided any detailed comments, evidenced any attempts at remediation nor provided a reflective statement which would assist in assessing her level of insight. It is also noted that as far as the NMC are aware, she has not worked as a nurse since she resigned. The NMC submit that, without more, it cannot be said that Ms Dzavakwa no longer continues to pose a risk to the public.*

The NMC therefore invite the Panel to find that Ms Dzavakwa is currently impaired on public protection grounds.

Public Interest

19. *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 their caution (in this case), 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.”

20. *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.*

21. *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. This case involves a premeditated course of dishonest conduct which the NMC submit is more difficult to put right. A concern which hasn't been put right is likely to require a finding of impairment to uphold professional standards and maintain public confidence.*

22. *Further, the NMC submit that the concerns identified in this case are of the type that are so serious that, even where the nurse has addressed the behavior, or attempted to, a finding of impairment is required either to uphold proper professional standards and conduct or to maintain public confidence in the profession.*

23. *According to the police, Ms Dzavakwa gave a frank, open and honest police interview admitting to her conduct, and was extremely remorseful. She also*

apologised to her former employer in her letter of resignation, stating that she was ashamed and asking for forgiveness. The NMC therefore consider that she has displayed some insight and has expressed genuine remorse.

24. *However, Ms Dzavakwa has not fully engaged with the NMC investigation. She has not provided any detailed comments, evidenced any attempts at remediation nor provided a reflective statement which would assist in assessing her level of insight. In any event, given the serious nature of the caution and in line with the NMC guidance on dishonesty, Ms Dzavakwa's behaviour is of the type that is more difficult to address. It is also noted that as far as the NMC are aware, she has not worked as a nurse since she resigned.*
25. *Notwithstanding Ms Dzavakwa's remorse and likely retirement from nursing, given the nature and seriousness of the caution and the aggravating features in relation to the dishonesty, it is submitted that it cannot be properly said that there is no risk of repeat.*
26. *Even if the risk of repeat is found to be low, the NMC submit that the public interest in this case is engaged at a high level and that a finding of impairment on public interest grounds is necessary to declare and uphold proper standards of conduct and behaviour.'*

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

Decision and reasons on impairment

The panel next went on to decide if, as a result of the actions that led to Ms Dzavakwa's conditional caution, her fitness to practise is currently impaired.

Registered 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 registered nurses with their lives and the lives of their loved ones. To justify that trust, registered 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) 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 found that all limbs of the Grant test are engaged in this case. It was of the view that Ms Dzavakwa's conduct in misusing patient details and falsifying colleagues' identification data, placed patients at an unwarranted risk of harm by potentially presenting false information about their medication histories and treatments received.

The panel further determined that Ms Dzavakwa's conduct constituted a serious breach of the fundamental tenets of the nursing profession as she failed to uphold the standards and values of the nursing profession, thereby bringing the reputation of the profession into disrepute. Ms Dzavakwa had also acted dishonestly as confirmed by her caution.

The panel found that Ms Dzavakwa's actions amounted to a breach of the Code, specifically the following:

'5 Respect people's right to privacy and confidentiality

To achieve this, you must:

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

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

Promote professionalism and trust

You uphold the reputation of your profession at all times. You should display a personal commitment to the standards of practice and behaviour set out in the Code. You should be a model of integrity and leadership for others to aspire to. This should lead to trust and confidence in the profession from patients, people receiving care, other health and care professionals and the public.

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

20.4 keep to the laws of the country in which you are practising'

The panel had regard to the NMC Guidance on Impairment especially the question which states:

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

The panel is aware that this is a forward-looking exercise and, accordingly, it went on to consider whether Ms Dzavakwa's conduct is remediable and whether she had strengthened her nursing practice.

The panel had regard to the case of *Cohen v GMC*, where the court addressed the issue of impairment with regard to the following three considerations:

- a. 'Is the conduct that led to the charge easily remediable?'*
- b. Has it in fact been remedied?'*
- c. Is it highly unlikely to be repeated?'*

The panel considered whether Ms Dzavakwa's conduct found in the charge proved is easily remediable. It found that Ms Dzavakwa's actions are suggestive of deep-seated attitudinal concerns which are difficult to remediate.

The panel took account of the Police Crime Report in which it was stated that:

'....she (Ms Dzavakwa) gave a full admission to the offence of theft and subsequent fraudulent transactions for prescription medicines using the book.'

'DZAVAKWA was remorseful for her actions, she realised the implications of her actions and was informed that her employer would be informed.'

The panel noted that whilst Ms Dzavakwa had shown remorse and apologised during the police investigation, she had not engaged with the NMC proceedings. The panel determined that due to Ms Dzavakwa's lack of engagement, there was no evidence of insight or remediation. This included no evidence of her understanding the impact of her actions on patients, her colleagues, the nursing profession and public confidence in the profession.

In light of this, this panel determined that there is a high risk of repetition and a consequent risk of harm to the public. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel had regard to the serious nature of Ms Dzavakwa's actions and her caution. It determined that public confidence in the profession, particularly as it involved dishonesty which began whilst at work in a clinical environment, would be undermined if a finding of impairment were not made in this case. It was of the view that a fully informed member of the public, aware of the proven charge in this case, would be very concerned if Ms Dzavakwa were permitted to practise as a registered nurse without restrictions. For this reason, the panel determined that a finding of current impairment on public interest grounds was required. It decided that this finding is necessary to mark the seriousness of Ms Dzavakwa's actions and caution, the importance of maintaining public confidence in the nursing profession, and to uphold the proper professional standards for members of the nursing profession.

Having regard to all of the above, the panel was satisfied that Ms Dzavakwa's fitness to practise is currently impaired on both public protection and public interest grounds.

Sanction

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

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.

Representations on sanction

The panel took into account the NMC's written representations on sanction, which stated:

'Sanction

32. *The Panel are respectfully referred to NMC Guidance Reference: SAN-3 Available sanction orders and Reference: SAN-2 Considering sanctions for serious cases).*

33. *We consider the following sanction is proportionate: **Striking Off Order (SAN3e).***

34. *This case involves theft of a prescription pad, in breach of trust, whilst Ms Dzavakwa was working as a recovery nurse in a surgical unit, in order to obtain prescriptions for herself, for pain relief. The offending took place between September 2019 and May 2020. The conduct was dishonest and an abuse of her position and her privileged access to patient and confidential information to create the medication requests. It occurred over a prolonged period of time and was not a "one off" incident because she created 18 fictitious prescriptions. It was a calculated course of conduct involving multiple dishonest acts.*

35. *Such dishonesty over a prolonged period of time is so serious that it must call into question a nurse's honesty and integrity. Whilst remorseful, Ms Dzavakwa has not submitted any evidence of remediation or any understanding of how her actions impact the nursing profession.*
36. *The Panel may give serious consideration to whether a period of suspension is the appropriate sanction in this case. The NMC Guidance states that a Suspension Order (SAN-3d) may be appropriate where there is:*
- *a single instance of misconduct – this is not the case here as it involves multiple occasions of using false prescriptions to obtain medication*
 - *no evidence of harmful deep-seated personality or attitudinal problems – Ms Dzavakwa's actions were dishonest, calculated and show evidence of deep seated personality or attitudinal issues*
 - *no evidence of repetition of behaviour since the incident – she has not been working as a nurse*
 - *satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour – Ms Dzavakwa has not provided any information or reflective piece to show demonstrate evidence of her increasing / developed insight and understanding. It cannot therefore be said with confidence that there is no / little risk of repetition.*

Striking Off Order Reference: SAN-3e

37. *The NMC submit that in light of the above, a suspension order or other less serious order is not appropriate and would not meet the seriousness of this particular case.*
38. *The NMC Sanction Orders Guidance states that a Striking Off Order is likely to be appropriate when what the nurse, midwife or nursing associate has done is fundamentally incompatible with being a registered professional. Before imposing this sanction, key considerations the panel will take into account include:*

- i. *Do the regulatory concerns about the nurse, midwife or nursing associate raise fundamental questions about their professionalism?*
- ii. *Can public confidence in nurses, midwives and nursing associates be maintained if the nurse, midwife or nursing associate is not removed from the register?*
- iii. *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

39. *This case concerned the stealing of a prescription pad whilst working as a recovery nurse in a surgical unit in order to obtain prescriptions for pain relief drugs for herself. The offending took place between September 2019 and May 2020. The conduct was dishonest and an abuse of her position and access to patient and confidential information to create medication requests. It happened over a prolonged period of time and was not a “one off” incident creating 18 fictitious prescriptions. It was a calculated course of conduct involving multiple dishonest acts. Such dishonesty over a prolonged period of time is so serious that it calls into question her honesty and integrity. Ms Dzavakwa has not submitted any evidence of remediation or understanding of how her actions impact the nursing profession. A period of suspension would not adequately protect the public or mark the seriousness of the case. It is therefore submitted that a striking-off order is the only appropriate sanction in this case sufficient to protect patients and maintain professional standards and public confidence in the professions.’*

Decision and reasons on sanction

Having found Ms Dzavakwa’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, it 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:

- A pattern of misconduct over a period of time.
- Actions which placed patients at risk of harm.
- Abuse of the position of trust.
- Conduct which brings the nursing profession into disrepute.
- The police caution relates to her conduct while working as a registered nurse.
- No evidence to demonstrate insight or remediation.

The panel also took into account the following mitigating features:

- Remorse and apology for her actions as recorded in the Police Crime Report and early admissions to the police.
- No evidence before the panel of previous misconduct in a long nursing career.

The panel had regard to the NMC Guidance on Considering sanctions for serious cases, in particular, Cases involving dishonesty, SAN-2. The panel found that Ms Dzavakwa's conduct was not a one-off incident nor was it a spontaneous action, but a calculated course of conduct involving multiple dishonest acts over a period of time. Ms Dzavakwa abused her position of trust and misused the personal data of patients and professional data of her colleagues for her personal gain.

The panel therefore found the dishonesty in this case to be serious and at the higher end of the spectrum of serious cases.

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.

The panel then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Ms Dzavakwa's nursing 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 this case was not at the lower end of the spectrum and that a caution

order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Ms Dzavakwa's 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 the following:

'Conditions may be appropriate when some or all of the following factors are apparent:

- *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;*
- *no evidence of general incompetence;*
- *potential and willingness to respond positively to retraining;*
- *...;*
- *patients will not be put in danger either directly or indirectly as a result of the conditions;*
- *the conditions will protect patients during the period they are in force;*
and
- *conditions can be created that can be monitored and assessed.'*

The panel was of the view that Ms Dzavakwa's actions identified in this case could not be addressed through retraining and was difficult to remediate. The panel had also identified deep-seated attitudinal problems in this case on Ms Dzavakwa's part. It determined that, given the seriousness of the concerns, the deep-seated attitudinal problems and Ms Dzavakwa's lack of insight into the impact of her actions on patients, her colleagues, the nursing profession and the public, there are no practicable or workable conditions that could be formulated. Accordingly, a conditions of practice order would not address the risk of repetition and the continued risk of harm to the public. Consequently, the panel decided that any conditions of practice order would not protect the public nor be in the public interest.

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 considered that this was not an isolated incident but rather a sustained pattern of behaviour over a long period of time. It found that although Ms Dzavakwa had demonstrated remorse, she has failed to demonstrate insight on the impact of her conduct on patients, her colleagues, the nursing profession and the public. The panel found that her actions are suggestive of deep-seated attitudinal concerns which heightens the significant risk of repetition. It noted that Ms Dzavakwa had expressed her intention to retire from the nursing profession and she has not engaged with the NMC. Therefore, the panel was not satisfied that a period of suspension would serve any useful purpose.

Consequently, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction and would not protect the public nor satisfy the public interest consideration in this case.

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?*

The panel determined that Ms Dzavakwa's actions constituted a serious breach of the fundamental standards of professional conduct and behaviour that a registered nurse is expected to maintain. The panel found that Ms Dzavakwa's actions were significant departures from the standards expected of a registered nurse.

The panel concluded that the serious breach of the fundamental tenets of the profession, evidenced by Ms Dzavakwa's actions and caution, is fundamentally incompatible with her remaining on the register. The seriousness of the breach coupled with Ms Dzavakwa's lack of engagement with these proceedings and any evidence of insight and remediation led the panel to conclude that allowing 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, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of Ms Dzavakwa's actions in bringing the nursing 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 a striking-off order would be sufficient in this case.

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

This will be confirmed to Ms Dzavakwa in writing.

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the

protection of the public, is otherwise in the public interest or in Ms Dzavakwa's own interests until the striking-off sanction takes effect.

The panel heard and accepted the advice of the legal assessor.

Representations on interim order

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

40. '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 we consider an interim order in the same terms as the substantive order should be imposed on the basis that it is necessary for the protection of the public and otherwise in the public interest.'

41. '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 we consider an interim order of suspension should be imposed on the basis that it is otherwise in the public interest.'

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 in order to protect the public and uphold the public interest, during any potential appeal period. The panel determined that not to impose an interim order would be inconsistent with its earlier decisions.

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

That concludes this determination.