

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

**Substantive Hearing  
Monday, 26 February 2024 – Thursday, 29 February 2024**

Nursing and Midwifery Council  
2 Stratford Place, Montfichet Road, London, E20 1EJ

<b>Name of Registrant:</b>	<b>Susan Elizabeth Peppiatt</b>
<b>NMC PIN</b>	76G0757E
<b>Part(s) of the register:</b>	Registered Nurse – Adult, Level 2 – 18 July 1978 Registered Nurse – Adult, Level 1 – 6 April 2004
<b>Relevant Location:</b>	Coventry
<b>Type of case:</b>	Misconduct
<b>Panel members:</b>	Richard Youds (Chair, Lay member) Jim Blair (Registrant member) Linda Redford (Lay member)
<b>Legal Assessor:</b>	John Moir
<b>Hearings Coordinator:</b>	Amanda Ansah
<b>Nursing and Midwifery Council:</b>	Represented by Jemima Lovatt, Case Presenter
<b>Ms Peppiatt:</b>	Not Present and unrepresented
<b>Facts proved:</b>	Charges 3a, 3c, 3d, 3e, 3f, 5a, 5b and 6
<b>Facts not proved:</b>	Charges 1, 2, 3b, (4 falls away)
<b>Fitness to practise:</b>	Impaired
<b>Sanction:</b>	<b>Striking-off order</b>
<b>Interim order:</b>	<b>Interim suspension order (18 months)</b>

## **Decision and reasons on service of Notice of Hearing**

The panel was informed at the start of this hearing that Ms Peppiatt was not in attendance and that the Notice of Hearing letter had been sent to Ms Peppiatt's registered email address by secure email on 26 January 2024.

Ms Lovatt, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, dates and venue of the hearing, amongst other things, information about Ms Peppiatt's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all of the information available, the panel was satisfied that Ms Peppiatt has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

## **Decision and reasons on proceeding in the absence of Ms Peppiatt**

The panel next considered whether it should proceed in the absence of Ms Peppiatt. It had regard to Rule 21 and heard the submissions of Ms Lovatt who invited the panel to continue in the absence of Ms Peppiatt. Ms Lovatt submitted that there are 2 witnesses attending today to give live evidence and not proceeding may inconvenience them. She further submitted that as the charges relate to events that occurred in 2019, further delay may have an adverse effect on the ability of witnesses to accurately recall events and there is a strong public interest in the expeditious disposal of the case.

Ms Lovatt went on to submit that Ms Peppiatt had voluntarily absented herself.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised '*with the utmost care and caution*' as referred to in the case of *R v Jones (Anthony William)* (No.2) [2002] UKHL 5.

The panel has decided to proceed in the absence of Ms Peppiatt. In reaching this decision, the panel has considered the submissions of Ms Lovatt and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Ms Peppiatt;
- Ms Peppiatt has informed the NMC that she has received the Notice of Hearing and will not be attending;
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- Two witnesses are to attend today to give live evidence,
- Not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- The charges relate to events that occurred in 2019 and further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Ms Peppiatt in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her at her registered address, she has made limited response to the allegations. She will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on her own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested

by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Ms Peppiatt's decision to absent herself from the hearing, waive her rights to attend, and/or be represented, and to not provide evidence or make submissions on her own behalf.

In these circumstances, the panel decided that it is fair to proceed in the absence of Ms Peppiatt. The panel will draw no adverse inference from Ms Peppiatt's absence in its findings of fact.

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

[PRIVATE]

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

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

The panel determined to go into private session [PRIVATE] as and when such issues are raised in order to maintain her privacy.

### **Details of charges**

That you, a registered nurse:

1. Provided a reference to the agency 'DRC Group' dated 11 February 2019 in the name of Colleague A which;
  - a. you knew had not been written by Colleague A

- b. you had written yourself
  - c. was signed in the name of Colleague A
  - d. had not been signed by Colleague A
  - e. stated that you had worked with Colleague A on dates which you had not
  - f. contained information that you knew Colleague A would not have agreed to write
2. In the alternative to charge 1, allowed a reference to be provided to, or created by, the agency 'DRC Group' dated 11 February 2019 in the name of Colleague A which;
- a. you knew had not been written by Colleague A
  - b. was signed in the name of Colleague A
  - c. had not been signed by Colleague A
  - d. stated that you had worked with Colleague A on dates which you had not
  - e. contained information that you knew Colleague A would not have agreed to write
3. Provided a reference to the agency 'ICG Medical' dated 8 April 2019 in the name of Colleague A which;
- a. you knew had not been written by Colleague A;
  - b. you had written yourself;
  - c. was signed in the name of Colleague A
  - d. had not been signed by Colleague A
  - e. stated that you had worked with Colleague A on dates which you had not
  - f. contained information that you knew Colleague A would not have agreed to write
4. In the alternative to charge 3, allowed a reference to be sent to, or created by, the agency 'ICG Medical' dated 8 April 2019 in the name of Colleague A which;
- a. you knew had not been written by Colleague A;
  - b. was signed in the name of Colleague A
  - c. had not been signed by Colleague A

- d. stated that you had worked with Colleague A on dates which you had not
  - e. contained information that you knew Colleague A would not have agreed to write
5. Your actions in charges 1, 2, 3 and/or 4 above were dishonest in that you sought to mislead one or more agency and/or prospective employer :
- a) Into believing each reference was written by Colleague A
  - b) That you had worked with Colleague A more recently than you really had.
6. Sent a text message, or allowed a text message to be sent, from your phone number to colleague A saying “you cunt” or words to that effect

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

### **Background**

The charges arose following concerns in February 2019 and April 2019 in which it is said that Ms Peppiatt sent false references to the agencies DRC Locums (dated 11 February 2019) and ICG Medical (dated 8 April 2019). The references were purporting to be from Colleague A (Witness 2). The concerns were brought to light when the agencies contacted Colleague A (Witness 2) to validate the references and Colleague A (Witness 2) confirmed that she had not completed them.

ICG Medical began a local investigation into these concerns, but this was not completed as Ms Peppiatt was on sick leave.

A referral was made to the NMC on 8 May 2019. Ms Peppiatt is currently not working as a Registered Nurse.



## Charge 1

1. "Provided a reference to the agency 'DRC Group' dated 11 February 2019 in the name of Colleague A which."
  - a. you knew had not been written by Colleague A
  - b. you had written yourself
  - c. was signed in the name of Colleague A
  - d. had not been signed by Colleague A
  - e. stated that you had worked with Colleague A on dates which you had not
  - f. contained information that you knew Colleague A would not have agreed to write

### **These charges are found NOT proved.**

In reaching this decision, the panel determined that there was insufficient evidence to ascertain who provided the reference to DRC Group. The panel accepted that a reference was provided but noted from the evidence given by Colleague A (Witness 2) that she was not the one who provided it. The panel determined that it cannot be sure that Ms Peppiatt provided the reference. The panel further noted the oral evidence given by Witness 1 that she could not assist on how the reference was received or who sent it. The panel noted Ms Peppiatt, in her response bundle, refers to Person 1 (an agency consultant), being the person who provided this reference to DRC Group and denies providing it herself. Although neither Witness 1 nor Colleague A (Witness 2) could explain to the panel who Person 1 was, the panel noted that it did not have evidence of a trail of communication before it to ascertain where the reference came from and to whom it was sent. The panel could not satisfy itself that sufficient evidence had been provided to determine that Ms Peppiatt was the person who provided this reference.

As the panel could not determine that Ms Peppiatt provided the reference, it could not proceed with limbs a-f of the charge. The panel therefore finds these charges not proved.



## Charge 2

2. “In the alternative to charge 1, allowed a reference to be provided to, or created by, the agency ‘DRC Group’ dated 11 February 2019 in the name of Colleague A which:
  - a. you knew had not been written by Colleague A
  - b. was signed in the name of Colleague A
  - c. had not been signed by Colleague A
  - d. stated that you had worked with Colleague A on dates which you had not
  - e. contained information that you knew Colleague A would not have agreed to write.”

### **These charges are found NOT proved.**

In reaching this decision, the panel noted that Ms Peppiatt denies being the one who provided the reference to DRC Group. The panel considered that the act of ‘allowing’ was a proactive measure and entails giving permission for something to happen. The panel had regard to the oral evidence given by Colleague A (Witness 2) that she did not know who provided the reference, she did not write it and did not sign it.

The panel also had regard to Ms Peppiatt’s response that the reference was provided by Person 1 despite there being no evidence before the panel that suggests on what basis this occurred. However, without the direct link between Ms Peppiatt, DRC Group, and an intermediary third party, the panel determined that it did not have enough evidence to say that Ms Peppiatt allowed the reference to be provided to, or created by, DRC Group. Witness 1 stated in her oral evidence that she did not know the original source of the reference. The panel determined that not being certain of the source of the reference, it could not presume it had been allowed to be used by Ms Peppiatt.

As the panel could not determine that Ms Peppiatt allowed the reference to be provided to, or created by, the agency ‘DRC Group’, it could not proceed with limbs a-e of the charge.

The panel therefore finds these charges not proved.

### **Charge 3**

3. "Provided a reference to the agency 'ICG Medical' dated 8 April 2019 in the name of Colleague A which..."

In considering each limb of Charge 3, the panel took into account all of the written and oral evidence provided by the NMC and Ms Peppiatt's response bundle.

The panel took into account the oral evidence provided by Witness 3. Witness 3 demonstrated a detailed understanding of ICG Medical's processes and, during the course of her evidence, provided the panel with a screenshot of an email Ms Peppiatt sent to Person 2 (who worked within the ICG Medical compliance team) dated 10 April 2019. The panel noted that the email address that was used to send this email to Person 2 is the same email address Ms Peppiatt has registered with the NMC, and the same email address that was used to satisfy the panel that notice of this hearing had been served in accordance with the Rules.

The panel noted that this email Ms Peppiatt sent to Person 2, attached JPEG's of each page of the reference dated 8 April 2019. The panel was satisfied that this serves as a direct link between Ms Peppiatt, ICG Medical and a third party (namely Person 2) in which there is a trail demonstrating that Ms Peppiatt provided this reference to ICG Medical.

### **Charge 3a**

3. Provided a reference to the agency 'ICG Medical' dated 8 April 2019 in the name of Colleague A which;
  - a) you knew had not been written by Colleague A;

**This charge is found proved.**

In reaching this decision, the panel noted Colleague A (Witness 2)'s oral and written evidence that she did not provide the reference and that she had not worked with Ms Peppiatt for some time at the point it was provided. Colleague A (Witness 2) informed the panel that she had previously provided Ms Peppiatt with references including an open reference in 2014 in the form of a letter addressed 'to whom it may concern'. The panel noted that in Colleague A (Witness 2)'s witness statement, she referred to declining Ms Peppiatt's request for a reference as she had not worked with her for 2 years at the time of the request. The panel determined that Ms Peppiatt therefore knew that Colleague A (Witness 2) had no knowledge of her work for a 4–5-year period and refused to provide a current reference on that basis.

The panel determined that Ms Peppiatt must have known that Colleague A (Witness 2) did not write the reference when she sent it to ICG Medical. The panel further noted the oral evidence provided by Witness 3 that Ms Peppiatt tried to dissuade the agency from following its due process of contacting referees to validate the references they provide. Witness 3 informed the panel that Ms Peppiatt told the agency that there was no need for them to contact Colleague A (Witness 2) as she had signed the reference. The panel was satisfied that this was due to Ms Peppiatt knowing that Colleague A (Witness 2) had not written the reference as she had claimed.

The panel therefore finds this charge proved on the balance of probabilities.

### **Charge 3b**

3. Provided a reference to the agency 'ICG Medical' dated 8 April 2019 in the name of Colleague A which;
  - b) you had written yourself

**This charge is found NOT proved.**

In reaching this decision, the panel determined that it did not have sufficient evidence before it to determine who created the reference. The panel noted that there was no evidence before it that Ms Peppiatt had written the reference herself. The panel accepted that a reference was provided, but it could not be satisfied that an inevitable

inference that Ms Peppiatt had written it could be drawn.

The panel therefore finds this charge not proved.

### **Charge 3c**

3. Provided a reference to the agency 'ICG Medical' dated 8 April 2019 in the name of Colleague A which;
  - c) was signed in the name of Colleague A

**This charge is found proved.**

In reaching this decision, the panel noted that in the reference there is a signature present that can be inferred to be from Colleague A (Witness 2). Although Colleague A (Witness 2) denies being the one who signed the reference, it does have the appearance of her usual signature as seen by the panel. The panel is satisfied that the reference was signed in such a way that it was purported to be from Colleague A (Witness 2).

The panel was satisfied that on the balance of probabilities it could draw an inference that the signature was in the name of Colleague A (Witness 2).

The panel therefore finds this charge proved.

### **Charge 3d**

3. Provided a reference to the agency 'ICG Medical' dated 8 April 2019 in the name of Colleague A which;
  - d) had not been signed by Colleague A

**This charge is found proved.**

In reaching this decision the panel noted the written and oral evidence provided by

Colleague A (Witness 2) that she did not sign the reference. Although the reference appeared to have been signed in her name, the panel accepted her evidence that it was not her signature although similar to her own. Colleague A (Witness 2) insisted she was not the person who had provided it.

The panel therefore finds this charge proved.

### **Charge 3e**

3. Provided a reference to the agency 'ICG Medical' dated 8 April 2019 in the name of Colleague A which;
  - e) stated that you had worked with Colleague A on dates which you had not

**This charge is found proved.**

In reaching this decision the panel noted Colleague A (Witness 2)'s written statement in which she stated that she had not worked with Ms Peppiatt in 4 to 5 years. The panel also noted that the dates, 19 January 2019 to 20 February 2019, which the reference claims that Ms Peppiatt worked with Colleague A (Witness 2), equated to approximately 5 weeks. The panel determined that this would not be a sufficient period of a time for a reference of this nature. Colleague A (Witness 2)'s evidence was that she stopped working with Ms Peppiatt around 2014-2015. The panel noted that Ms Peppiatt was working for an agency for a period prior to applying for ICG Medical.

The panel therefore finds this charge proved.

### **Charge 3f**

3. Provided a reference to the agency 'ICG Medical' dated 8 April 2019 in the name of Colleague A which;
  - f) contained information that you knew Colleague A would not have agreed to write

**This charge is found proved.**

In reaching this decision the panel noted the oral and written evidence Colleague A (Witness 2) provided in that she had stopped responding to Ms Peppiatt's requests for a reference. The panel was satisfied that Ms Peppiatt would know that Colleague A (Witness 2) would not have agreed to write the reference. It had already found proved that Ms Peppiatt knew Colleague A (Witness 2) did not write the reference. The panel noted that in her written statement, Colleague A (Witness 2) stated that she did not think she was an appropriate referee for Ms Peppiatt as she had not worked with her for more than two years at that time.

The panel therefore finds this charge proved.

#### **Charge 4**

Having found parts of Charge 3 proved, the panel determined that it was unnecessary to consider the alternative in Charge 4. This charge now falls away.

#### **Charge 5a**

5. Your actions in charges 3, 3a, 3c, 3d, 3e, and 3f above were dishonest in that you sought to mislead one or more agency and/or prospective employer:

- a) Into believing each reference was written by Colleague A

**This charge is found proved.**

In reaching this decision, the panel took into account the NMC guidance on dishonesty in which it states:

*“there is a distinction to be drawn between an allegation of conduct which is intrinsically dishonest, like fraud or forgery, as opposed to an allegation which relates to conduct (record-keeping, for example) which is capable of being performed either honestly or dishonestly...”*

The panel determined that having found proved Ms Peppiatt provided the reference and knew it was not written by Colleague A (Witness 2), she sought to mislead ICG Medical into believing it was written by Colleague A (Witness 2). The panel determined that Ms Peppiatt was knowingly acting dishonestly when she submitted this reference.

The panel therefore finds this charge proved.

### **Charge 5b**

5. Your actions in charges 3, 3a, 3c, 3d, 3e, and 3f above were dishonest in that you sought to mislead one or more agency and/or prospective employer:

- b) That you had worked with Colleague A more recently than you really had.

**This charge is found proved.**

In reaching this decision, the panel took into account Colleague A (Witness 2)'s written statement in which she states that she had not worked with Ms Peppiatt since 2014-2015 and her oral evidence confirming this. The panel determined that Ms Peppiatt knew exactly when she had worked with Colleague A (Witness 2) and she also knew that Colleague A (Witness 2) had refused to provide her with a reference given the length of time that had passed since they last worked together. The panel further noted that Ms Peppiatt attempted to dissuade ICG Medical from validating the reference and it determined that these actions were dishonest.

The panel therefore finds this charge proved.

### **Charge 6**

6. Sent a text message, or allowed a text message to be sent, from your phone number to colleague A saying "you cunt" or words to that effect

**This charge is found proved.**

In reaching this decision, the panel took into account the screenshot of the text message in evidence. It noted that in her oral evidence, Witness 2 stated that she received the text message and knew it was from Ms Peppiatt because her name and phone number is saved in her contacts as "Sue Work", and the text was received from this contact. The screenshot of the text message also shows the date and the time it was sent. The panel was therefore satisfied that a text message was sent from Ms Peppiatt's phone to Colleague A (Witness 2) saying these words.

The panel noted that whether it was Ms Peppiatt herself who sent the text message is less clear. The panel further noted that Ms Peppiatt says she did not send it; that someone else had got hold of her phone, sent the text message, and she was not aware that it had been sent until she was contacted about it by her representatives.

The panel determined, from the evidence before it, that the offensive text had been sent from Ms Peppiatt's phone. The panel also determined that, on the balance of probabilities, Ms Peppiatt had allowed her phone to be used to send this text message.

The panel therefore finds this charge 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 Ms Peppiatt'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 ability to practise kindly, safely, and professionally.

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

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the



facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Ms Peppiatt's 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.*'

Ms Lovatt invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives' (2015) (the Code) in making its decision.

Ms Lovatt identified the specific, relevant standards where Ms Peppiatt's actions amounted to misconduct:

**'1 Treat people as individuals and uphold their dignity**

*To achieve this, you must:*

1.1 treat people with kindness, respect and compassion.

**8 Work co-operatively**

*To achieve this, you must:*

8.1 respect the skills, expertise and contributions of your colleagues, referring matters to them when appropriate

**20 Uphold the reputation of your profession at all times**

*To achieve this, you must:*

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

*20.5 treat people in a way that does not take advantage of their vulnerability or cause them upset or distress*

*20.10 use all forms of spoken, written and digital communication (including social media and networking sites) responsibly, respecting the right to privacy of others at all times*

## **24 Respond to any complaint made against you professionally'**

Ms Lovatt submitted that Ms Peppiatt's actions in providing a false reference with which she sought to secure work, and her dishonesty about this, amounted to misconduct.

### **Submissions on impairment**

Ms Lovatt 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)

Ms Lovatt submitted that Ms Peppiatt breached all four limbs of the Grant test:

*'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.'*

Ms Lovatt submitted that when considering limb a), Ms Peppiatt's actions in seeking to work at ICG Medical based on a false reference put prospective patients at risk of harm as she would have begun practising without meeting the agency's safety requirements. When considering limb b), Ms Lovatt submitted that Ms Peppiatt's actions in providing a false reference to the agency and allowing an offensive text message to be sent to a previous colleague brought the medical profession into disrepute. She further submitted that in considering limb c), Ms Peppiatt breached fundamental tenets of the profession by being dishonest and allowing an offensive text message to be sent to a colleague. Ms Lovatt also submitted that Ms Peppiatt breached limb d) of the test as she has been found to have been dishonest.

Ms Lovatt submitted that Ms Peppiatt has not engaged in these proceedings and has not shown any remorse or insight and remains a clear risk to the public.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and *General Medical Council v Meadow* [2007] QB 462 (Admin).

### **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 Ms Peppiatt's actions did fall significantly short of the standards expected of a registered nurse, and that Ms Peppiatt's actions amounted to a breach of the Code. Specifically:

**'1 Treat people as individuals and uphold their dignity**

*To achieve this, you must:*

1.1 treat people with kindness, respect and compassion.

**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

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

20.5 treat people in a way that does not take advantage of their vulnerability or cause them upset or distress

20.10 use all forms of spoken, written and digital communication (including social media and networking sites) responsibly, respecting the right to privacy of others at all times.'

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel determined that, in considering Charge 3, Ms Peppiatt's actions in presenting a reference purporting to be from Colleague A (Witness 2) amounted to serious misconduct. Ms Peppiatt knew that the reference had not been provided or signed by Colleague A (Witness 2). Ms Peppiatt knew that Colleague A (Witness 2) was not prepared to give her a current reference.

The panel determined that Ms Peppiatt's actions in Charge 5 by seeking to mislead ICG Medical that the reference had been provided by Colleague A (Witness 2) also amounted to serious misconduct. Ms Peppiatt was dishonest about the source of the reference and sustained this dishonesty when she attempted to dissuade the agency from validating the reference.

The panel further determined that Ms Peppiatt's actions in Charge 6 also amounted to serious misconduct as she allowed an abusive text message to be sent to Colleague A (Witness 2), outside of professional contact and in the absence of an established rapport with her. The panel had regard to the NMC's guidance on concerns outside professional practice and determined that Ms Peppiatt's actions in respect of this text amounted to harassment and potential victimisation. The text message caused distress and the panel determined that somebody, on behalf of Ms Peppiatt, was attempting to harass and victimise Colleague A (Witness 2) following her complaint.

The panel found that Ms Peppiatt's actions outlined above fell seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

### **Decision and reasons on impairment**

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

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

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

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

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

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

that their conduct at all times justifies both their patients' and the public's trust in the profession.

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

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

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

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

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

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

The panel determined that patients were placed at potential risk of harm as a result of Ms Peppiatt's misconduct in attempting to obtain employment at ICG Medical by providing a false reference. In doing this, Ms Peppiatt was attempting to cover up any possible concerns with her professional practice which in turn placed patients at potential risk of harm. Ms Peppiatt's misconduct and dishonesty had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. Ms Peppiatt demonstrated abusive behaviour in allowing a distressing and offensive text message to be sent to Colleague A (Witness 2) and her conduct, outlined in the charges found proved, breached the Code. The panel was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious. Ms Peppiatt acted dishonestly by attempting to mislead ICG Medical into employing her with a false reference and attempting to dissuade the agency from validating it.

Regarding insight, the panel determined that Ms Peppiatt had failed to demonstrate an understanding of how her actions put patients at potential risk of harm and how this impacted negatively on the reputation of the nursing profession. Ms Peppiatt has not provided evidence of significant remorse or an attempt to remedy the concerns and demonstrate that she can practise safely, kindly, and professionally. The panel determined that Ms Peppiatt had a deep-seated attitudinal problem and, given that dishonesty is difficult to remediate, it was of the view that she had not made any attempt to do so.

The panel was satisfied that the misconduct in this case is capable of being addressed. Therefore, the panel carefully considered the evidence before it in determining whether or not Ms Peppiatt has taken steps to strengthen her practice. The panel took into account the response bundle in which Ms Peppiatt made some limited responses to the concerns. The panel had regard to a personal reflection statement provided by Ms Peppiatt. Ms Peppiatt apologised for the text message being sent on behalf of who she claims sent it. However, she did not acknowledge the distress it caused Colleague A

(Witness 2). The panel determined that Ms Peppiatt demonstrated limited remorse within this statement and did not take responsibility for her misconduct and dishonesty.

The panel determined that there is a risk of repetition based on Ms Peppiatt's lack of insight and remediation, and her limited remorse for the concerns. Ms Peppiatt attempted to hide any potential professional concerns from ICG Medical and there is no evidence before the panel that she accepts that this was wrong. 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; 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 determined that a finding of impairment on public interest grounds is required because an informed member of the public would expect a nurse, who provided a false reference to obtain employment, and allowed an offensive text message to be sent, be found impaired. It determined that confidence in the regulator would be undermined should a finding of impairment not be made in this case.

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

## **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 Peppiatt off the register. The effect of this order is that the NMC register will show that Ms Peppiatt has been struck-off the register.



In reaching this decision, the panel has had regard to all the evidence 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**

Ms Lovatt submitted that the NMC seek the imposition of a striking-off order given the panel's finding that Ms Peppiatt's fitness to practise is currently impaired. She submitted that the panel need to consider each of the available sanctions in turn when making its decision.

Ms Lovatt submitted that the aggravating feature in this case is that Ms Peppiatt's dishonesty related to her work. She submitted that this case cannot be said to be one of the rare cases where no further action is needed as a risk to the public has been identified and there is a need to maintain public confidence in the profession.

Ms Lovatt submitted imposing a caution order would not be sufficient to protect the public or satisfy the public interest as Ms Peppiatt's actions have been found to have amounted to misconduct and she has also been found to be dishonest. She submitted that a conditions of practice order would also not be an appropriate sanction as the misconduct identified and the dishonesty in this case cannot be remediated or mitigated by conditions. She reminded the panel that Ms Peppiatt has not provided in her statement any evidence of actions she has taken to remediate her conduct therefore there is no information before the panel to suggest that she would comply with any conditions.

Ms Lovatt further submitted that a suspension order will not be appropriate as this was not a one-off incident. The case involves providing a false reference and then lying about it. There is no insight and there is a high risk of repetition. She submitted that therefore, a striking-off order is the only order that would protect the public and the reputation of the profession.

Ms Lovatt submitted that the concerns in this case do raise underlying questions about the professionalism of Ms Peppiatt. She reminded the panel that the NMC guidance on striking-off orders suggests that the panel should consider the following questions when looking at whether to impose a striking-off order. Firstly, do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism? Ms Lovatt submitted that the answer to this is yes given the panel's findings on Ms Peppiatt's misconduct and impairment. Secondly, can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register. Ms Lovatt submitted that an informed member of the public would expect a nurse, who had been found to be impaired for the reasons above, to be removed from the register. Thirdly, striking-off is the only sanction that would be sufficient to protect patients, members of the public or maintain professional standards.

Ms Lovatt submitted that in light of the above, the panel should impose a striking-off order in this case.

### **Decision and reasons on sanction**

Having found Ms Peppiatt'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:

- Planned and pre-meditated dishonesty
- An attempt to prevent the reference being validated.
- The text message caused distress and was sent as a response to the NMC referral.
- Very limited insight into the concerns raised by the charges found proved.

The panel also took into account the following mitigating features:

- [PRIVATE]
- Limited remorse regarding the text message sent from her phone.

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, the public protection issues identified, and Ms Peppiatt's dishonesty, such an order that does not restrict her 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 Ms Peppiatt's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Ms Peppiatt's registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the deep-seated attitudinal dishonesty found in this case. The misconduct identified in this case was not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Ms Peppiatt's 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 a suspension order may be appropriate where some of the following factors are apparent:

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Ms Peppiatt's actions is fundamentally incompatible with Ms Peppiatt remaining on the register. The panel determined that a suspension order would not be sufficient given that Ms Peppiatt had not demonstrated any active desire to change or remediate these concerns.

In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate, or proportionate sanction.

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

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

Ms Peppiatt'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 Ms Peppiatt'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.

The panel determined that a fully informed member of the public would find it shocking if Ms Peppiatt was not removed from the register. The concerns are serious and involve dishonesty, which is very difficult to remediate. There is nothing before the panel to suggest that Ms Peppiatt had shown sufficient insight or the risk of repetition of these concerns have been reduced. The panel had regard to the case of *Parkinson v NMC 2010* [EWHC] 1898 (Admin) in which it refers to a nurse, who has not attended personally or by representation to demonstrate remorse, realisation that their conduct was dishonest, and given an undertaking that there would be no repetition, effectively forfeits the small chance of persuading a panel to adopt a lenient approach. This applies to Ms Peppiatt's case. Further, the dishonesty was premeditated, and there was an ongoing attempt to frustrate validation of the falsified reference she had provided.

Balancing all of these factors, and after considering all the evidence before it during this case, the panel determined that the only appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of Ms Peppiatt's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct herself, the panel has concluded that nothing short of this would be sufficient in this case.

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

This will be confirmed to Ms Peppiatt in writing.

### **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 Ms Peppiatt's own

interests until the striking-off 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 Ms Lovatt. She submitted that an interim suspension order for 18 months should be imposed in case of any appeal application made by Ms Peppiatt. She further submitted that given the serious nature of the misconduct found proved in this case, an interim suspension is necessary on public protection grounds and 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 in light of the serious charge found proved. The panel therefore imposed an interim suspension order for a period of 18 months to allow for the appeal period to take place. The panel determined that it would not be appropriate for Ms Peppiatt to practise without restriction during this period.

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

That concludes this determination.