

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

**Substantive Hearing
Tuesday, 13 – Friday 16 February 2024**

Virtual Hearing

Name of Registrant: Michelle Mercedes Stamp-Nix

NMC PIN 0117787E

Part(s) of the register: RNA: Adult Nurse, Level 1 (14 September 2004)

Relevant Location: Bromley

Type of case: Misconduct

Panel members: Nicola Dale (Chair, lay member)
Sharon Peat (Registrant member)
Louise Guss (Lay member)

Legal Assessor: John Donnelly

Hearings Coordinator: Catherine Acevedo

Nursing and Midwifery Council: Represented by Giedrius Kabasinskas, Case Presenter

Mrs Stamp-Nix: Not present and unrepresented

Facts proved: Charges 1a, 1b, 2, 3, 4a, 4b, 4c, 4d

Facts not proved: Charge 5

Fitness to practise: Impaired

Sanction: **Striking-off order**

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

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Stamp-Nix was not in attendance and that the Notice of Hearing letter had been sent to Mrs Stamp-Nix's registered email address by secure email on 11 January 2024.

Mr Kabasinkas, 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. The original notice provided details of the venue of the hearing to be held physically and a subsequent notice was sent on 8 February 2024 advising that the hearing would now be held virtually including instructions on how to join and, amongst other things, information about Mrs Stamp-Nix'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 Mrs Stamp-Nix 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 Mrs Stamp-Nix

The panel next considered whether it should proceed in the absence of Mrs Stamp-Nix. It had regard to Rule 21 and heard the submissions of Mr Kabasinkas who invited the panel to continue in the absence of Mrs Stamp-Nix. The panel also made enquiries of the original venue to ensure that Mrs Stamp-Nix had not attended for a physical hearing in line with the original notice of hearing.

Mr Kabasinkas submitted that there is no information regarding Mrs Stamp-Nix's absence and she has not been engaged with the NMC for a significant time. He submitted that, as a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion.

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 Mrs Stamp-Nix. In reaching this decision, the panel has considered the submissions of Mr Kabasinkas 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 Mrs Stamp-Nix;
- Mrs Stamp-Nix has not engaged with the NMC and has not responded to any of the letters sent to her about this hearing;
- There is no reason to suppose that adjourning would secure Mrs Stamp-Nix's attendance at some future date;
- Arrangements have been made for one witness to give live evidence today;
- Not proceeding may inconvenience the witness, 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 2021 and further delay may have an adverse effect on the ability of the witness to accurately recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mrs Stamp-Nix in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her registered email address, she has made no 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 Mrs Stamp-Nix'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 has decided that it is fair to proceed in the absence of Mrs Stamp-Nix. The panel will draw no adverse inference from Mrs Stamp-Nix's absence in its findings of fact.

Details of charge as amended

That you, a Registered Nurse while working at Sundridge Care Home (the Home):

- 1) On 25 February 2021 removed from the Home:
 - a. Chanel perfume belonging to Resident D without permission.
 - b. One or more items belonging to residents at the Home without permission.
- 2) On 25 February 2021 sought to remove an iPad and charger belonging to the Home without permission by putting them in your bag.
- 3) Your actions in Charges 1a) and or b) and or 2 were dishonest in that you knew you were not entitled to remove the items but did so anyway.

4) On 25 February 2021:

- a. Failed to administer Memantine to Resident A.
- b. Incorrectly signed that you had administered Memantine to Resident A.
- c. Administered two Senna tablets to Resident B instead of one.
- d. ~~Administered two Phenytoin Sodium tablets to Resident C instead of one~~
Failed to administer Phenytoin Sodium tablets to Resident C as prescribed.

5. Your actions in Charge 4 b) were dishonest in that you sought to represent you had correctly administered medication to Resident A when you had not.

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

Background

On 18 March 2021, a referral was made to the NMC by the Manager of Sundridge Court Care home (the Home). At the time of the incident, Mrs Stamp-Nix was working for an agency and had attended the Home for the first time to fulfil a night shift duty starting on 24 February 2021.

It was reported that on the 25 February 2021, night shift care staff alerted the Manager due to concerns about the behaviour of Mrs Stamp-Nix. The deputy Manager, Witness 1, attended the Home before the end of the night shift to investigate the concerns. Witness 1 later called the police after it was alleged that Mrs Stamp-Nix had stolen items belonging to the home and residents during this night shift.

As a result of an immediate audit of the medications administered on this shift, it was also discovered that Mrs Stamp-Nix made three medication errors during her shift. This

involved failing to administer medication to two residents and administering two tablets instead of one tablet to another resident.

Decision and reasons on application to amend the charge

The panel heard an application made by Mr Kabasinkas, on behalf of the NMC, to amend the wording of charge 4d.

Mr Kabasinkas submitted that the NMC evidence was based on the witness' written evidence. However, upon giving oral evidence the witness made a correction to her written statement in that she asserted that Mrs Stamp-Nix failed to administer any Phenytoin Sodium tablets to Resident C. He submitted that there is no prejudice to Mrs Stamp-Nix because statements and exhibits have been served on her and she is aware of the allegations.

Mr Kabasinkas submitted that this is not a substantive amendment to the charge and, if it is not allowed, this would significantly prejudice the NMC's case as they would be unable to prove the charge on a technical ground. Mr Kabasinkas submitted that the amendment can be made without injustice, and he invited the panel to grant the application.

Proposed amendment charge 4d

Failed to administer ~~Administered two~~ Phenytoin Sodium tablets to Resident C instead of one.

The panel accepted the advice of the legal assessor and had regard to Rule 28 of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel was of the view that an amendment of charge 4d was in the interest of justice. However, the panel determined that to include the wording 'as prescribed' to the NMC's proposed amendment would be more appropriate in the circumstances.

Amended charge 4d

Failed to administer Phenytoin Sodium tablets to Resident C **as prescribed.**

The panel was satisfied that there would be no prejudice to Mrs Stamp-Nix and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore appropriate to allow the amendment to ensure clarity and accuracy.

Decision and reasons on adjournment

After the panel had started its deliberations on the facts, Mr Kabasinskas informed the panel that the NMC had received an email from Mrs Stamp-Nix dated 13 February 2024, where she made comments about Witness 1's written evidence [PRIVATE]. The email indicated that Mrs Stamp-Nix is aware that the hearing is taking place and that she was of the view that it had potentially concluded. He also provided the panel with Witness 1's police statement which Mrs Stamp-Nix refers to in the email.

Mr Kabasinskas submitted that the email and the police statement should be considered by the panel before it announces its decision on the facts. He submitted that in the email Mrs Stamp-Nix does not respond to whether it was true that she had the items belonging to the Home and the residents in her possession. He also submitted that Witness 1's police statement is consistent with her oral account of the events and the two other written accounts she has provided.

The panel took into account that there had been a long period of non-engagement by Mrs Stamp-Nix and now she had sent a two-page email to the NMC which she has taken time to write and had sent from an email address which was different to her registered email address. The panel considered that Mrs Stamp-Nix should be informed, at this stage, that she could still engage with proceedings and give her the opportunity to attend, be able to address the panel and provide any evidence before it makes its decision on the facts.

The panel therefore decided to adjourn the hearing until the following morning, to allow the NMC time to make contact with Mrs Stamp-Nix and to give her a further opportunity to take part in the hearing and address the panel.

No further correspondence was received from Mrs Stamp-Nix to the NMC by the following morning and the panel took the decision to continue with its deliberations on the facts.

Decision and reasons on facts

In reaching its decisions on the facts, the panel took into account all the oral and documentary evidence in this case including the late email and police statement received following the contact from Mrs Stamp-Nix, together with the submissions made by Mr Kabasinskas on behalf of the NMC.

The panel has drawn no adverse inference from the non-attendance of Mrs Stamp-Nix.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

The panel heard live evidence from the following witness called on behalf of the NMC:

- Witness 1: Deputy Manager of the Home.

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

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

Charges 1a and 1b

On 25 February 2021 removed from the Home:

- a) Chanel perfume belonging to Resident D without permission
- b) One or more items belonging to residents at the Home without permission

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Witness 1 and Mrs Stamp-Nix's email of 13 February 2024.

The panel noted that Mrs Stamp-Nix's email did not address whether she had removed or had permission to remove any items belonging to residents from the Home.

In Witness 1's local statement dated 25 February 201 she explains *"On 25/02/2021 I was called by my Home Manager... at 6am to go to work as soon as possible, as she was contacted by the night carers at 3am and they have reported the Agency Nurse [Mrs Stamp-Nix], that she was acting very strange and looks like she is stealing things"*. She further stated *"While we went to check her car, her car boot there were many bags and items. I firstly noticed in one of her bags a Chanel No.5 perfume which I knew that belongs to one of our residents. I then ask her to bring everything out of the car including the bags. While I checked the bags, I found more items from our residents (with labels on them), like clothing, toiletries and bank cards"*.

Witness 1 stated in her oral evidence that she knew the Chanel perfume belonged to Resident D as it was the same 30ml size in an unopened box. She said that she checked Resident D's room and bathroom thoroughly for the perfume to see whether it had been misplaced, it was no longer there and was reported missing. She said the perfume was

not labelled but, what appeared to be the same unopened box, was found in Mrs Stamp-Nix car inside a bag together with labelled items belonging to other residents.

The panel noted that there were some inconsistencies between Witness 1's local statement and her NMC statement in terms of exactly what property had been found when and where in terms of a bank card and jewellery but she was able to explain this in oral evidence. The panel found that with supplementary explanation, both accounts were consistent with her oral evidence and her police statement which was written on the day of the incident.

The panel found Witness 1's evidence to be credible and reliable. The panel found no motivation for Witness 1 to be untruthful. It therefore accepted her account of the incident.

The panel determined that on the balance of probabilities, Mrs Stamp-Nix removed the Chanel perfume belonging to Resident D and other items belonging to residents from the Home without permission. It therefore found charges 1a and 1b proved.

Charge 2

On 25 February 2021 sought to remove an iPad and charger belonging to the Home without permission by putting them in your bag.

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Witness 1 and Mrs Stamp-Nix's email of 13 February 2024.

The panel noted that Mrs Stamp-Nix's email did not address whether she had sought to remove the Home's iPad and charger without permission by putting them in her bag.

In Witness 1's police statement dated 25 February 2021 she stated *"I turned away from [Mrs Stamp-Nix] and when I turned back ground (sic) she was putting our care home iPad out of her bag and placing it back on the side in the nurses station, the iPad is never in the nurses station as it belongs in the manager's office and does not leave that office"*

During her oral evidence, Witness 1 was clear and consistent that she witnessed Mrs Stamp-Nix remove the Home's iPad from a bag she had brought into the building and put it on the table after she had been challenged by Witness 1 regarding what was in her bags. Witness 1 said she had observed Mrs Stamp-Nix removing the iPad from her bag when she thought that Witness 1 was not looking.

Having already found Witness 1's evidence to be credible and reliable, the panel accepted her account of the incident.

The panel determined that on the balance of probabilities, Mrs Stamp-Nix sought to remove the Home's iPad and charger without permission by putting them in her bag. It therefore found charge 2 proved.

Charge 3

Your actions in Charges 1a) and or b) and or 2 were dishonest in that you knew you were not entitled to remove the items but did so anyway.

This charge is found proved.

In reaching this decision, the panel took into account its findings at charges 1a, 1b and 2, that Mrs Stamp-Nix had removed the residents' belongings from the home without permission and that she had put the Home's iPad in her bag also without permission. It considered that, as a registered nurse employed at the Home to look after vulnerable residents, Mrs Stamp-Nix would have been aware that she was not entitled to remove these items from the Home without permission.

The panel have no evidence regarding Mrs Stamp-Nix's state of mind at the time. The panel heard evidence from Witness 1 that Mrs Stamp-Nix appeared to be drowsy and unwell when Witness 1 arrived at the Home. In oral evidence Witness 1 said Mrs Stamp-Nix was *"Looking drowsy like she was taking drugs... she was saying nothing, not a single word just looking lost"*. Witness 1 also told the panel that Mrs Stamp-Nix had vomited. The panel noted that Mrs Stamp-Nix did not address in her email whether she was unwell on the shift in question.

The panel found that the removal of items from the Home without permission amounted to a course of conduct throughout the shift in that there is evidence that Mrs Stamp-Nix brought a number of carrier bags into the Home which she potentially used to remove the residents' items. Numerous items of varying value had been removed from the Home and put inside Mrs Stamp-Nix's car and Mrs Stamp-Nix was also seen by Witness 1 to remove the Home's iPad from one of her carrier bags once challenged indicating that she knew she was not entitled to take it.

The panel determined that in the absence of any other explanation Mrs Stamp-Nix's actions could only be described as dishonest and would be seen as such by any ordinary member of the public. It therefore found charge 3 proved in relation to charges 1a, 1b and 2.

Charges 4a and 4b

On 25 February 2021:

- a) Failed to administer Memantine to Resident A.
- b) Incorrectly signed that you had administered Memantine to Resident A.

These charges are found proved.

In reaching this decision, the panel took into account the evidence of Witness 1.

The panel noted that Mrs Stamp-Nix's email of 13 February 2024 made no reference at all to the allegations regarding medication errors.

The panel had sight of Resident A's MAR chart. The panel considered that Ms Stamp-Nix had a duty to administer the medication to Resident A and would have known to administer it because it was clearly stated on Resident A's MAR chart but failed to do so.

Witness 1 said in her NMC witness statement *"Ms Stamp-Nix failed to administer Memantine 20mg tablets to ("Resident A")... This medication was to be administered during the night shift. Ms Stamp-Nix has signed the MAR chart thereby indicating that the medication was administered, however she did not actually administer the medication. Her signature was the only blue pen there. I was able to confirm the medication was not administered because we counted the medication and there was one more than there should have been"*.

Witness 1's written and oral accounts of this incident were consistent. Witness 1 told the panel that staff at the Home counted medication at each administration of each drug and recorded the stock balance on the MAR chart each evening. Therefore, it was highly unlikely that this error had occurred on a previous shift. Had Mrs Stamp-Nix given the correct number of tablets to Resident A the total amount of tablets remaining would have been different from that recorded on the MAR chart. Having already found Witness 1's evidence to be credible and reliable, the panel accepted her account of the incident.

The panel determined that, on the balance of probabilities, Mrs Stamp-Nix failed to administer Memantine to Resident A and incorrectly signed that she had administered Memantine to Resident A. It therefore found charges 4a and 4b proved.

Charge 4c

On 25 February 2021:

- c) Administered two Senna tablets to Resident B instead of one.

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Witness 1. The panel also had sight of Resident B's MAR chart.

The panel noted that Mrs Stamp-Nix's email of 13 February 2024 made no reference at all to the allegations regarding medication errors.

Witness 1 said in her NMC witness statement *"Ms Stamp-Nix also administered two Senna 7.5mg tablets to ("Resident B"), instead of one tablet. Resident B's MAR chart stated that one tablet should be administered at night... I know she administered double dose because Ms Stamp-Nix wrote there were 17 tablets left, when there should have been 18. This was also confirmed when I did a count"*.

Witness 1's written and oral accounts of this incident were consistent. Having already found Witness 1's evidence to be credible and reliable, the panel accepted her account of the incident.

The panel determined that, on the balance of probabilities, Mrs Stamp-Nix administered two Senna tablets to Resident B instead of one. It therefore found charge 4c proved.

Charge 4d

On 25 February 2021:

- d) Failed to administer Phenytoin Sodium tablets to Resident C as prescribed.

This charge is found proved.

In reaching this decision, the panel took into account Witness 1's evidence.

The panel noted that Mrs Stamp-Nix's email of 13 February 2024 made no reference at all to the allegations regarding medication errors.

The panel had sight of Resident C's MAR chart. The panel considered that Ms Stamp-Nix had a duty as a registered nurse to administer the Phenytoin Sodium tablets to Resident C because it was clearly stated on Resident C's MAR chart and she failed to do so.

Witness 1 said in her NMC witness statement "*In terms of ("Resident C"), Ms Stamp-Nix administered two Phenytoin sodium 100mg instead of one*". However, in her oral evidence Witness 1 clarified that Mrs Stamp-Nix did not administer any Phenytoin Sodium tablets to Resident C.

Witness 1 told the panel that staff at the Home counted medication at each administration of each drug and recorded the stock balance on the MAR chart each evening. Therefore, it was highly unlikely that this error had occurred on a previous shift. Had Mrs Stamp-Nix given the correct number of tablets to Resident C the total amount of tablets remaining would have been different from that recorded on the MAR chart.

Having already found Witness 1's evidence to be credible and reliable, the panel accepted her account of the incident.

The panel determined that, on the balance of probabilities, Mrs Stamp-Nix failed to administer Phenytoin Sodium tablets to Resident C as prescribed. It therefore found charge 4d proved.

Charge 5

Your actions in Charge 4 b) were dishonest in that you sought to represent you had correctly administered medication to Resident A when you had not.

This charge is found not proved.

In reaching this decision, the panel took into account its findings at charges 4b, that Mrs Stamp Nix had incorrectly signed that she had administered Memantine to Resident A.

The panel noted that Mrs Stamp-Nix's email to the NMC dated 13 February 2024 did not address this medication error. The panel had no evidence regarding Mrs Stamp-Nix's state of mind at the time. The panel heard evidence from Witness 1 that Mrs Stamp-Nix appeared to be drowsy and unwell when Witness 1 arrived at the Home. Mrs Stamp-Nix does not address in her email whether she was unwell on the shift in question.

The panel noted that Witness 1 arrived at the Home at 6am having been called in by night shift carers due to concerns about Mrs Stamp-Nix but it had no other direct evidence regarding Mrs Stamp-Nix's behaviour before this time. The panel determined that Mrs Stamp-Nix most likely incorrectly recorded that she gave this medication by mistake, signing in advance of the patient receiving the medicines. The panel heard no evidence that Mrs Stamp-Nix sought to gain from failing to administer this medication.

The panel considered that, as a registered nurse employed at the Home to look after vulnerable residents, Mrs Stamp-Nix would have been aware of her duty to accurately record medication administered to residents. However, the panel took into account that no medication was missing and found that Mrs Stamp-Nix simply made an error by recording that she had given the medication when she had not. The panel did not find dishonesty and it therefore found charge 5 not proved.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Mrs Stamp-Nix'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, Mrs Stamp-Nix'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.*'

Mr Kabasinkas invited the panel to take the view that the facts found proved amount to misconduct. He referred the panel to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015)' (the Code) and identified the specific, relevant standards where the NMC submit Mrs Stamp-Nix's actions amounted to misconduct.

Mr Kabasinkas submitted that medication administration is a basic element of safe and effective nursing. He submitted that the medication errors were not isolated and involved multiple residents. Therefore, Mrs Stamp-Nix's actions at charge 4 fell below the standard expected of a nurse and amounted to misconduct.

In relation to charges 1, 2 and 3 involving dishonesty, Mr Kabasinkas submitted that that honesty is a fundamental cornerstone of the care profession. He submitted that stealing from vulnerable residents, breaches trust in nurses and put vulnerable patients at the risk of harm. He submitted that Mrs Stamp-Nix's actions by removing residents' property and the Home's property without permission fell below the standards expected of a nurse and amounted to misconduct.

Submissions on impairment

Mr Kabasinkas 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 Kabasinkas submitted that limbs a, b, c and d were engaged in the *Grant* test.

Mr Kabasinkas submitted that the medication errors relate to clinical practice are capable of remediation. However, Mrs Stamp-Nix has not shown any willingness to engage, and her email of 13 February 2024 does not address this issue at all. In relation to the dishonest behaviour, he submitted that this misconduct is more serious, and he referred the panel to the NMC guidance on how to determine seriousness. However, there is no evidence from Mrs Stamp-Nix that she has developed insight, remorse or remediated the concerns.

Mr Kabasinkas submitted that there is a risk of repetition of the misconduct identified and Mrs Stamp-Nix's practice is currently impaired on the grounds of public protection. He submitted that a finding of impairment is also required on public interest grounds to maintain public confidence in the nursing profession and to uphold proper professional standards.

The panel heard and 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 Mrs Stamp-Nix's actions did fall significantly short of the standards expected of a registered nurse, and that Mrs Stamp-Nix's actions amounted to a breach of the Code. Specifically:

“1.1 treat people with kindness, respect and compassion

1.2 make sure you deliver the fundamentals of care effectively

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

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

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

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

The panel first considered the charges involving dishonesty. The panel was of the view that Mrs Stamp-Nix's actions by removing and seeking to remove multiple items from the Home some which belonged to numerous vulnerable residents, was a serious breach of the Code. The panel considered that patients were put at risk of harm and were caused distress as a result of Mrs Stamp-Nix's conduct. Mrs Stamp-Nix's actions were not isolated and demonstrated a course of conduct that fellow practitioners and members of

the public would find deplorable and would not expect from a registered nurse. The panel found that Mrs Stamp-Nix's actions at charges 1, 2 and 3 fell seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

In relation to the charges relating to medication administration errors. The panel considered that Mrs Stamp-Nix's actions were not so serious as to amount to misconduct. The panel considered that she had made genuine errors and had not tried to conceal her mistakes. The panel therefore found that Mrs Stamp-Nix's actions at charge 4 did not amount to serious misconduct.

Decision and reasons on impairment

The panel next went on to decide if, as a result of the misconduct, Mrs Stamp-Nix'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. 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 found that all limbs are engaged in the *Grant* test. The panel finds that residents were put at risk and one was caused distress as a result of Mrs Stamp-Nix's dishonesty. Mrs Stamp-Nix's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

Regarding insight, the panel took into account that until Mrs Stamp-Nix's email of 13 February 2024, there had been no engagement by her with the NMC for a significant amount of time. It noted the email gave details about [PRIVATE] some questions regarding the evidence. Following her email, Mrs Stamp-Nix was invited by the panel to take part in the hearing. However, she did not engage further with proceedings. The panel noted, that in the email, Mrs Stamp-Nix has not acknowledged the charges she faces, sought to give any explanation and has not demonstrated an understanding of how her actions put the residents at a risk of harm. She has not demonstrated an understanding of why what she did was wrong and how this will have impacted negatively on the reputation of the nursing profession and the public's confidence in it. The panel saw no evidence of remorse or explanation to how she would handle the situation differently in the future.

The panel considered that dishonesty is serious and difficult to address. It took into account Mrs Stamp-Nix's email of 13 February 2024. However, Mrs Stamp-Nix has not provided any information to the panel regarding her insight or steps she has taken to address the concerns. The panel is therefore of the view that there is a risk of repetition based on the absence of any information from Mrs Stamp-Nix about her insight or steps taken to address the concerns. 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 public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Mrs Stamp-Nix's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Mrs Stamp-Nix'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 Mrs Stamp-Nix off the register. The effect of this order is that the NMC register will show that Mrs Stamp-Nix 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.

Submissions on sanction

Mr Kabasinkas outlined for the panel what the NMC consider to be the aggravating and mitigating features of this case and referred the panel to the NMC guidance Sanctions for serious cases. Mr Kabasinkas submitted that honesty is of central importance to nursing and a finding of dishonesty will always be serious and involve possible removal from the register.

Mr Kabasinkas submitted that to take no further action or impose a caution order is not appropriate in this case. In terms of a conditions of practice order, he submitted there are no workable conditions that could be formulated to deal with dishonesty.

Mr Kabasinkas submitted that a suspension order would not be appropriate and referred the panel to the SG. He submitted that Mrs Stamp-Nix has provided no evidence of insight, and the panel has evidence of deep-seated attitudinal problems.

Mr Kabasinkas submitted that the only sanction which is sufficient in this case is that of a striking-off order. He submitted that the dishonesty in this case is serious and in view of the lack of engagement and evidence from Mrs Stamp-Nix, the panel cannot be sure that she will not repeat her misconduct. He submitted that the charges found proved are fundamentally incompatible with ongoing nursing registration.

Mr Kabasinkas informed the panel that Mrs Stamp-Nix has been subject to an interim suspension order since 14 April 2021.

Decision and reasons on sanction

Having found Mrs Stamp-Nix'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:

- Mrs Stamp-Nix's misconduct involved an abuse of a position of trust
- Mrs Stamp-Nix's lack of insight into her failings
- Pattern of conduct which put vulnerable residents at risk of suffering harm.

Whilst the panel noted Mrs Stamp-Nix's [PRIVATE] in the email that she sent to the NMC on 13 February 2024, she did not give any evidence as to how these [PRIVATE] matters could have affected her behaviour and led to the charges found proved.

The panel considered that there are no mitigating features in this case.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case 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 Mrs Stamp-Nix's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mrs Stamp-Nix'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 Mrs Stamp-Nix's registration would be a sufficient and appropriate response. The panel is of the view that there are no practicable or workable conditions that could be formulated, given the nature of the charges in this case. The dishonesty identified in this case was not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Mrs Stamp-Nix'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 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 Mrs Stamp-Nix's misconduct was not a single instance of dishonesty but a repeated course of conduct over one shift, which was not simply opportunistic and involved multiple residents and removing numerous personal items without permission. The panel considered that Mrs Stamp-Nix's email of 13 February 2024 did not address the concerns and provided no evidence that she had developed any insight into her misconduct and at no point had she expressed any remorse. The panel was of the view that there was evidence of harmful attitudinal problems because of her dishonesty and lack of evidence she had addressed any of the concerns.

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel found that the serious breach of the fundamental tenets of the profession evidenced by Mrs Stamp-Nix's actions is fundamentally incompatible with Mrs Stamp-Nix remaining on the register and ensuring ongoing confidence of the public in the profession and its regulator.

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?*

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

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of Mrs Stamp-Nix's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct themselves, 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 decision will be confirmed to Mrs Stamp-Nix 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 Mrs Stamp-Nix'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 Mr Kabasinskas. He submitted that an interim order is necessary for a period of 18 months to cover the 28 day appeal period. He submitted that an interim suspension order is necessary for the protection of the public and is in the wider 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 due to cover the appeal period.

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

That concludes this determination,