

Conduct and Competence Committee
Substantive Hearing
15 – 17 February 2016

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

Name of Registrant Nurse:	Mihaela Stan
NMC PIN:	08L0019C
Part(s) of the register:	Nurse-Sub Part 1 Registered Nurse- Adult: RN1
Area of Registered Address:	Australia
Type of Case:	Misconduct
Panel Members:	Andy Thompson (Chair, Lay member) Christine Russell (Lay member) Elaine Hurry (Registrant member)
Legal Assessor:	George Alliot
Panel Secretary:	Atanas Angelov
Ms Stan:	Not present and not represented
Nursing and Midwifery Council:	Represented by John Bentley, counsel, instructed by NMC Regulatory Legal Team.
Charges found proved:	All
Fitness to practise:	Impaired
Sanction:	Striking-off order
Interim Order:	Suspension order (18 months)

Details of charge:

That you, a registered nurse:

1. On or around 18 November 2014, in support of an application for employment at Spire Harpenden Hospital, submitted a curriculum vitae which contained inaccurate information regarding your employment history;
2. Your conduct as alleged in charge 1 was dishonest in that you intended to create a false impression;

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

Decision on Service of Notice of Hearing

The panel was informed at the start of this hearing that Ms Stan was not in attendance.

In the light of the information available, the panel was satisfied that notice had been served, as advised by the legal assessor, in accordance with Rules 11 and 34 of *The Nursing and Midwifery Council (Fitness to Practise) Rules Order of Council 2004 (as amended)* ("the Rules").

- 11 (2) *The notice of hearing shall be sent to the registrant*
(b) in every case, no later than 28 days before the date fixed for the hearing.
- 34 (1) *Any notice of hearing required to be served upon the registrant shall be delivered by sending it by a postal service or other delivery service in which delivery or receipt is recorded to*
(a) her address in the register

Notice of this hearing was sent to Ms Stan on 25 November 2015 by recorded delivery to her address on the register, which complies with the rules of service. The panel noted

the disparity of the addresses on pages two and five of the proof of posting document. Mr Bentley explained that this was due to Ms Stan's address being updated on WISER following the postage of the notice of the hearing. Mr Bentley stated that the notice of this hearing was sent to Ms Stan's address in England in accordance with the rules. Although the NMC was aware that Ms Stan was in the process of moving to Australia, Ms Stan expressly instructed the NMC to serve documents at her address on the Register as this would be forwarded to her. Further, the NMC served notice on Ms Stan's then representatives, the RCN.

Proceeding in absence

The panel then considered continuing in the absence of Ms Stan. The panel heard the submissions made by Mr Bentley on behalf of the Nursing and Midwifery Council (NMC) and took account of the legal assessor's advice.

The panel was mindful that this was a discretion that must 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.

In deciding whether to proceed in the absence of Ms Stan, the panel weighed its responsibilities for public protection and the expeditious disposal of the case with Ms Stan's right to a fair hearing. The panel further noted that there were three witnesses in attendance for the NMC and any further delay could have a detrimental effect on their memory of events.

The panel noted that in an email dated 18 November 2015 Ms Stan informed the NMC that she would be moving to Australia on 21 November 2015 and indicated that she would not be available to attend any future hearings in person.

The panel noted that the letter dated 11 December 2015 sent to Ms Stan in Australia informing her of the outcome of a preliminary meeting (Exhibit 2) refers to the substantive hearing scheduled for 15 – 18 February 2015 (sic) – the year is manifestly a mistake and should be 2016.

The panel also took into account the written correspondence dated 2 February 2016 from the RCN, on Ms Stan's behalf, in which they indicate that she will not be present or represented at the hearing.

The panel was therefore satisfied that Ms Stan was, or should be, aware of today's hearing and it was of the view that she has chosen voluntarily to absent herself. An adjournment was not requested and the panel had no reason to believe that an adjournment would result in Ms Stan's attendance. The panel was mindful that the RCN had proposed to submit written representations on behalf of Ms Stan, but was unable to do so because they have not received further instructions from her in this respect. Having weighed the interests of Ms Stan with those of the NMC and the public interest in an expeditious disposal of this hearing, the panel has determined to proceed in her absence.

Decision and Reasons on application under Rule 31

The panel heard an application made by Mr Bentley under Rule 31 of the *Nursing and Midwifery (Fitness to Practise) Rules Order of Council 2004* (the Rules) to allow two extra documents that had not been served on the registrant or the RCN into evidence. These consisted of two signed cover sheets of the exhibits and one of the exhibits itself namely the attendance note of a telephone call with Ms Stan.

The panel heard and accepted the legal assessor's advice on the issues it should take into consideration in respect of this application. This included that Rule 31 provides that so far as it is '*fair and relevant*' a panel may accept evidence in a range of forms and circumstances and whether or not it is admissible in civil proceedings.

Having looked at the documents, the panel found that there was nothing in their contents that was adverse to Ms Stan's case. The panel considered that these documents merely provided further detail to what was already summarised in the witness statement of Ms 1 and found that there would be no unfairness to Ms Stan for the panel to take them into account.

There was also public interest in the issues being explored fully which supported the admission of this evidence into the proceedings.

In these circumstances the panel decided that it would accept into evidence the additional documentation, but would give what weight deemed appropriate to it once the panel had heard and evaluated all the evidence in the case.

Background

The matter was referred to the NMC on 26 November 2014 by Rachael Drewitt, Clinical Governance Facilitator at Spire Harpenden Hospital ('the Hospital').

It is alleged that Ms Stan knowingly included false information on her curriculum vitae ('CV') that she submitted in support of her application for employment at the Hospital in November 2014. Ms Stan had indicated that she had worked at the Hospital previously between 2003 and 2006, when it was owned by Bupa rather than Spire, and had worked within the accident and emergency department and the paediatric department.

Ms 2 has confirmed that the Hospital never had an accident and emergency department and has only recently started to treat children. Furthermore, the registrant obtained her PIN in December 2008, so it would not have been possible for her to have worked as a registered nurse between 2003 and 2006, or indeed until December 2008.

When questioned by the Hospital, Ms Stan allegedly confirmed the details within her CV were correct. The Hospital informed her that this could not be the case and advised her to change it.

Ms Stan responded to the NMC denying the allegation against her. The RCN, on her behalf, has submitted a folder containing Ms Stan's response to the allegations (Exhibit 7). This folder includes Ms Stan's response to the investigation report and the witness statements of Ms 2 and Ms 3. It also contains a screenshot dated 1 August 2015 of Ms Stan's profile on a website (Staffnurse.com) and a CV for Ms Stan that postdates June 2015 and which is not the subject matter of charge one.

Decision on the findings on facts and reasons

In reaching its decisions on the facts, the panel took into account all the oral and documentary evidence in this case. The panel heard oral evidence from three witnesses called on behalf of the NMC: Ms 1, formerly a Senior Case Investigations Officer at the Nursing and Midwifery Council, Ms 2, currently employed as the manager of the Out Patients Department at the Spire and Ms 3, currently employed as a HR Coordinator at the Spire.).

The panel found all witnesses to be credible and reliable.

The panel considered each charge and made the following findings:

That you, a registered nurse:

Charge 1

- 1. On or around 18 November 2014, in support of an application for employment at Spire Harpenden Hospital, submitted a curriculum vitae which contained inaccurate information regarding your employment history*

This charge is found proved.

The panel had the benefit of an agreement made between the NMC and the RCN concerning certain admitted facts. This agreement was made at a preliminary meeting on 9 December 2015. This recited as follows:

Ms Robinson informed the chair that these matters had now been agreed between Ms Robinson, on behalf of Ms Stan and the NMC.

Ms Robinson told the chair that in relation to the following issues:

1. *Whether Ms Stan is disputing whether exhibit JC/1, a CV, is a document which was received by Spire Hospital Harpenden.*

Ms Robinson told the chair that Ms Stan cannot, and so does not dispute that the exhibit JC/1 was received by the Spire Hospital Harpenden via the online human resources systems as set out in the witness statement of Janice Jones.

2. *Whether Ms Stan is disputing whether the employment history detailed within exhibit JC/1 accurately reflects your own employment history.*

Ms Robinson stated that Ms Stan does not dispute that the employment history contains inaccurate information.

3. *Whether Ms Stan agrees that she received her NMC PIN on 3 December 2008.*

Ms Robinson stated that Ms Stan agrees that she received her PIN on 3 December 2008.

4. *Whether Ms Stan agrees that the real issue in this case is whether she submitted the CV in exhibit JC/1*

Ms Robinson informed the chair that Ms Stan does not accept that she submitted the CV. Ms Robinson submitted that this is for the NMC to prove at the scheduled substantive hearing.

In reaching its decision, the panel took into account the evidence of the witnesses called on behalf of the NMC.

Ms 2 described the process for applying for a job with Spire. The applicant would visit the Spire website, look up the Hospital he or she wanted to work at, go to the recruitment page, answer relevant questions and attach their CV to the application.

Ms 2 told the panel that she accessed Ms Stan's CV on the Spire website and printed it off. She noticed that on the second page of her CV, Ms Stan referred to having worked in the Accident and Emergency (A&E) department at the Bupa Hospital Harpenden. Ms 2 thought that was strange because BUPA Hospital Harpenden never had an A&E department. She rang Ms Stan on the landline number provided on her CV to clarify this matter with her. Having received confirmation that she was indeed speaking with Ms Stan, Ms 2 asked her to confirm that she had worked in the BUPA Hospital Harpenden from January 2003 to September 2006, which she did. Ms 2 stated that the CV said that Ms Stan worked in the A & E department and Ms Stan said yes. Ms 2 went on to ask what was her role and Ms Stan replied that she was a triage nurse. The panel was mindful that Ms Stan used the same landline number to contact the NMC on 25 February 2015 following her receipt of the notice of referral.

Having considered the admitted facts and the evidence of Ms 2 and the fact that Ms Stan received her PIN in December 2008, the panel was satisfied that Ms Stan could not have worked as a Staff Nurse in Bupa Hospital Harpenden in the period January 2003 – September 2006 or as a Staff Nurse at Princess Alexandra NHS Trust or any other trust between September 2006 and September 2008. Further, the CV must be incorrect in stating that Ms Stan did a Nurse Adaptation Course at City University, London in 2003. On Ms Stan's evidence, she first came to the UK in September 2006. The panel therefore found that the CV in question contained inaccurate information regarding Ms Stan's employment history. This is not contested by Ms Stan. However, Ms Stan denies having submitted the CV and suggests that it could have been amended and submitted on her behalf by an agency.

The panel had no direct evidence as to who submitted the CV. Consequently the panel considered the surrounding circumstances. The false information contained in the CV was to give the impression that Ms Stan had worked as a registered nurse in the UK in an A & E role and in a paediatric department from January 2003, some 6 years before she actually became a registered nurse in the UK. In order to make the CV consistent the date of the adaptation course also had to be backdated from 2008 to 2003.

Firstly, the only person with the motive to falsify the CV would have been Ms Stan. She would be the only person to benefit from it by creating a false impression about her level of experience to secure a more senior, and hence, a better paid position. The panel found this proposal to be consistent with Ms Stan telling Ms 2 that *"I have been a manager so I am not interested in the job unless it pays £40 000 - £45 000"*.

Secondly, the evidence from Ms Stan was that in November 2014 her then employer had gone into administration and she needed a new job. The panel believed that, as Ms Stan told Ms 2, Ms Stan had made numerous other applications for employment at this salary level at this time.

Thirdly, the panel noted that the screenshot from the Spire website showed that the CV attached to the application in Ms Stan's name bore the file name "M_Stan_CV_October_2014.doc". This corresponded and was consistent with the final part of the CV which stated MS/10/2014.

Fourthly the panel accepted Ms 3's evidence that it is highly unlikely that an agency would make a job application on behalf of someone such as Ms Stan as there would be no benefit in it so doing.

Fifthly, the panel noted that the August 2015 printout of Ms Stan's profile on Staffnurse.com contained in the past employment section a reference to 'Staff Nurse / Stroke Assessment Practitioner (Band at ...)', which mirrors the description in the CV of Ms Stan's employment September 2006 – September 2008, which in turn is inaccurate. The panel doubts that anyone other than Ms Stan would be in a position to create and edit the information in her profile.

Sixthly, the panel took into account that in her written account to the NMC dated 1 August 2015 Ms Stan stated "...I never thought something as little as an entry in a CV can be taken any future" (the panel took this to be intended to be 'further'). In the panel's view it is not consistent with her statement that she had not submitted the CV.

Finally, the panel had regard to the telephone conversation between Ms 2 and Ms Stan, in which Ms Stan, not knowing she was speaking to a manager at the Spire, confirmed that the information contained in her CV was accurate and volunteered that she had worked in the UK as a triage nurse and in a paediatric department. Ms Stan has sent an accurate CV with her folder and this confirms that Ms Stan has never worked in an A & E department in the UK as a triage nurse or at all and has never worked in a paediatric department. In the panel's view the only reason she would have claimed to have done so would be because she knew she was speaking to a falsified CV.

The panel concluded, from all of the evidence, that it could infer that Ms Stan had submitted the CV with a job application in her name to Spire and found that it is more likely than not that she had done so.

Accordingly, the panel has found charge one proved.

The panel next considered charge

2. Your conduct as alleged in charge 1 was dishonest in that you intended to create a false impression;

This charge is found proved.

In reaching this decision, the panel applied the test as set out in *R v Ghosh [1982] Q.B. 1053*, as modified. This is a two part test in relation to dishonesty. Firstly, the panel had to determine whether Ms Stan's actions were dishonest according to the standards of reasonable and honest nurses and members of the public. Secondly, and only if the first test was met, the panel had to determine whether it is more likely than not that Ms Stan realised that what you were doing was, by those standards, dishonest.

The panel considered that the act of submitting a curriculum vitae containing false information regarding her employment history, for the purpose of obtaining an unfair advantage over other candidates and a potentially enhanced salary, would be

considered dishonest by the standards of both reasonable and honest members of the public, and nurses.

The panel determined that Ms Stan clearly knew her actions in charge 1 were dishonest by these standards. Therefore, on the balance of the probabilities the panel determined to find charge two proved.

Submission on misconduct and impairment

Having announced its finding on all the facts, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Ms Stan's fitness to practise is currently impaired. The NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

Mr Bentley addressed the panel in relation to the need to protect the public and the wider public interest. This includes declaring and upholding proper standards and the maintenance of public confidence in the profession and in the NMC as a regulatory body. He reminded the panel that there is no burden of proof at this stage and the decision on misconduct is for the panel's professional independent judgement.

In his submissions Mr Bentley invited the panel to take the view that Ms Stan's actions amount to a breach of parts of *The Code: Standards of conduct, performance and ethics for nurses and midwives 2008* ("the Code"). He then directed the panel to specific paragraphs and identified where, in the NMC's view, her actions amounted to misconduct. Mr Bentley referred the panel to the case of Roylance v GMC (No. 2) [2000] 1 AC 311 which defines misconduct as a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.

Mr Bentley submitted that honesty and integrity are fundamental tenets of the profession. Dishonesty is particularly serious as it can undermine the trust the public place in the profession. He stated that Ms Stan's actions represented a serious departure from the standards expected of a registered nurse and the panel can be satisfied that the facts found proved amount to misconduct.

Mr Bentley then moved on to the issue of impaired fitness to practise, 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. Mr Bentley invited the panel to consider the test set out by Dame Janet Smith in her fifth Shipman report, as endorsed in the *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin)*. He stated that part D of the test was of a particular significance in this case. Mr Bentley submitted that the public would not expect a nurse to behave in this particular way and if they did it would expect their Regulator to take action. He further submitted that if impairment was not found in this case, the public confidence in the profession and in the NMC as a regulator would be seriously undermined.

The panel has accepted the advice of the legal assessor.

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

Decision on misconduct

In determining whether the facts found proved amount to misconduct the panel had regard to the terms of the Code in force at that time, namely the May 2008 edition (the Code).

The panel was of the view that Ms Stan's actions did fall significantly short of the standards expected of a registered nurse, and that her actions did amount to a breach of the Code. Specifically:

Preamble

The people in your care must be able to trust you with their health and wellbeing

To justify that trust, you must:

- Be open and honest, act with integrity and uphold the reputation of your profession.

The numbered standards

61 You must uphold the reputation of your profession at all times.

The panel bore in mind that not every act falling short of what would be proper in the circumstances, and not every breach of the Code, will be sufficiently serious such that it can properly be described as misconduct. Accordingly, the panel had careful regard to the context and circumstances of the matters found proved.

Ms Stan had submitted a CV in support of her application for employment at the Hospital. This CV represented that she had six years more experience working as a registered nurse in the UK than she actually had. Further, the CV represented that she had experience working as a registered nurse in an A & E department and in a paediatric department. Ms Stan must have been aware of this inaccurate information regarding her employment history as she lied to confirm it in the telephone call with Ms 2. Ms Stan's actions could have resulted in her being appointed to a position she was not suitable for, which potentially could have put the public at risk of harm. Further, by acting in the way she did, Ms Stan could have denied other better qualified applicants, who had been honest about their employment history, the opportunity to obtain an appropriate post.

The panel considers her dishonesty to be a fundamental departure from the standard expected of a registered nurse and that her actions constituted a breach of a fundamental tenet of the profession. Honesty, integrity and trustworthiness are considered to be the bedrock of a nurse's practice.

The panel concluded that by her dishonest actions Ms Stan failed to uphold the reputation of her profession, that her behaviour fell seriously short of the standards reasonably expected of a nurse and were in the panel's view sufficiently serious to amount to misconduct.

Decision on impairment

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

Nurses occupy a position of privilege and trust in society and are expected at all times to be honest and open and to 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 judgement of Mrs Justice Cox in the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin) 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.

Mrs Justice Cox went on to say in Paragraph 76:

I would also add the following observations in this case having heard submissions, principally from Ms McDonald, as to the helpful and comprehensive approach to determining this issue formulated by Dame Janet Smith in her Fifth Report from Shipman, referred to above. At paragraph 25.67 she identified the following as an appropriate test for panels considering impairment of a doctor's fitness to practise, but in my

view the test would be equally applicable to other practitioners governed by different regulatory schemes.

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 concluded that Ms Stan's misconduct engaged all of the four questions set out in the case of *Grant [2011] EWHC 927 (Admin)*.

- Ms Stan has in the past and is liable in the future to act so as to put patients at unwarranted risk of harm. Falsifying her CV by claiming experience in A&E and paediatrics could have put her in a position where her actual lack of experience could have adversely impacted on patients' safety.
- Ms Stan has in the past and is liable in the future to bring the nursing profession into disrepute. The public would consider the falsifying her CV and acting dishonestly as totally unacceptable conduct by a registered nurse.
- Ms Stan has in the past breached and is liable in the future to breach one of the fundamental tenets of the nursing profession, namely integrity and honesty.
- Ms Stan has in the past and is liable in the future to act dishonestly.

The panel carefully considered all the evidence before it, including the bundle provided by Ms Stan, containing a letter from Ms Stan to the NMC, her written account of the

events and four character references. However, the panel found no evidence to suggest that Ms Stan has grasped the seriousness or the implications of her actions and behaviour on the nursing profession. There is also no evidence of any remediation, regret or remorse. Conversely, in her written account to the NMC dated 1 August 2015, Ms Stan demonstrated an alarming lack of understanding of the seriousness of her misconduct and its potential impact on the public confidence in the profession. The panel was particularly concerned by the following statements from her written account as, in the panel's view, they clearly demonstrate that Ms Stan believes her misconduct to be insignificant.

"...I never thought something as little as an entry in a CV can be taken any future (sic)(further).

...

My fitness to practise has been clean as far as I am concern (sic). I don't recall reading anywhere in the NMC code of conduct: fitness to practise and misconduct regarding Qualified Nurse CV.

If an experience (sic) Qualified Nurse is been strike (sic) of her NMC registration due to "alleged" making an impression on her CV I wonder what would happened (sic) to those whom (sic) have inquest court cases, medication errors, abuse, falsifying caring documents, deaths, poor practice etc."

Dishonesty is by its very nature not easily remediable and Ms Stan has presented no evidence written or otherwise to suggest any acceptance, accountability, understanding or reflection upon her actions. The panel was therefore of the view that if Ms Stan was permitted to return to unrestricted practice, there would be real risk of repetition of her dishonest conduct in the future.

The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding the proper standards and behaviour.

Having regard to the principles set out in *Grant*, the panel is in no doubt that confidence in the profession would be undermined if having regard to the serious nature of Ms Stan's dishonest misconduct a finding of impairment were not to be made. The panel is therefore satisfied that Ms Stan's fitness to practise is currently impaired by reason of her misconduct.

Determination on 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 Stan off the register. The effect of this order is that the NMC register will show that Ms Stan has been struck-off the register.

Mr Bentley, on behalf of the NMC, invited the panel to consider all the evidence before reaching a decision. Mr Bentley made no submissions as to which sanction in particular would be appropriate and submitted that this was a matter for the panel.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case. The panel accepted the advice of the legal assessor. 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 regard to the Indicative Sanctions Guidance ("ISG") published by the NMC. It recognised that the decision on sanction is a matter for the panel, exercising its own independent judgement.

The panel considered the aggravating and mitigating factors in this case. It found the following to be aggravating factors:

- Ms Stan's misconduct involved dishonesty and represented a serious departure from the standards expected of a registered nurse;

- Although no actual patient harm occurred, Ms Stan put patients at a potential risk of harm by supplying inaccurate information regarding her employment history on her CV;
- By persistently denying the charges Ms Stan perpetuated her misconduct; in the panel's judgment this was not a single incident in her career but was an attitudinal problem perpetuated over a period of time;
- Ms Stan failed to demonstrate insight into the seriousness of her misconduct;
- Ms Stan failed to demonstrate any accountability or remorse;
- The panel has identified an attitudinal issue;

The panel found the following to be mitigating factors:

- Ms Stan engaged with her Regulator in these proceedings to a limited extent;
- No evidence of previous NMC proceedings;
- As far as the panel is aware, an otherwise unblemished career in nursing from 1999 in Romania and from 2008 to November 2015 in the UK;
- No suggestion of any direct clinical issues;
- Positive character references and testimonials;

The panel considered each of the sanctions in ascending order.

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.

Next, in considering whether a caution order would be appropriate in the circumstances, the panel took into account the ISG, which states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that this dishonesty 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. Further, such an order would not protect the public.

The panel next considered whether placing conditions of practice on Ms Stan's registration would be a sufficient and appropriate response. A conditions of practice order is generally only appropriate where there is an identifiable area of a nurse's practice in need of assessment and/or retraining. Further, the panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the ISG, in particular:

63.8 It is possible to formulate conditions and to make provision as to how conditions will be monitored.

The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges. The panel was mindful that Ms Stan's competence had not been called into question. The misconduct identified in this case is dishonesty, and therefore cannot be addressed through retraining.

Furthermore the panel concluded that the placing of conditions on Ms Stan'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. Paragraph 71 indicates that a suspension order would be appropriate where (but not limited to):

67... the misconduct is not fundamentally incompatible with continuing to be a registered nurse or midwife in that the public interest can be satisfied by a less severe outcome than permanent removal from the register. This is more likely to be the case when some or all of the following factors are apparent (this list is not exhaustive):

67.2 No evidence of harmful deep-seated personality or attitudinal problems.

67.3 No evidence of repetition of behaviour since the incident

67.4 The panel is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour.

The panel also took account of the case of Parkinson v NMC in which Mr Justice Mitting stated:

“A nurse found to have acted dishonestly is always going to be at severe risk of having his or her name erased from the register. A nurse who has acted dishonestly, who does not appear before the Panel either personally or by solicitors or counsel to demonstrate remorse, a realisation that the conduct criticised was dishonest, and an undertaking that there will be no repetition, effectively forfeits the small chance of persuading the Panel to adopt a lenient or merciful outcome and to suspend for a period rather than direct erasure.”

The panel was of the view that by maintaining her stance that she had done nothing wrong, Ms Stan has perpetuated her misconduct. It was also of the view that Ms Stan demonstrated a lack of understanding of the seriousness of her actions and their implications on her patients, colleagues and the nursing profession. She also failed to demonstrate any insight or remorse. The panel was therefore of the view that there is a high risk of repetition of the misconduct.

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 Stan's actions is fundamentally incompatible with her remaining on the register.

The panel has taken into account the limited mitigating factors.

However, 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 ISG:

70.1 Is striking-off the only sanction which will be sufficient to protect the public interest?

70.2 Is the seriousness of the case incompatible with ongoing registration?

70.3 Can public confidence in the professions and the NMC be sustained if the nurse or midwife is not removed from the register?

71 This sanction is likely to be appropriate when the behaviour is fundamentally incompatible with being a registered professional, which may involve any of the following (this list is not exhaustive):

71.6 Dishonesty, especially where persistent or covered up

71.7 Persistent lack of insight into seriousness of actions or consequences

Ms Stan's actions and attitude were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with her remaining on the register. With regard to the matters the panel identified in paragraphs 70 and 71 of the ISG, in particular 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 striking off would be sufficient. The panel has also concluded that

public confidence in the profession would not be maintained if Ms Stan was not removed from the register. In all the circumstances the panel was of the view that a striking off order is the only appropriate and proportionate order that would be sufficient to protect the public interest.

The panel considered that a striking-off 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.

The panel has therefore determined to impose a striking off order and directs the Registrar to strike Ms Stan's name off the register.

Determination on Interim Order

Ms Stan,

The panel has considered the submissions made by Mr Bentley that an interim suspension order for a period of 18 months should be made on the grounds that it is necessary to protect the public and is otherwise in the public interest.

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

The panel was satisfied that an interim suspension 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. To do otherwise would be incompatible with its earlier findings.

The period of this order is for 18 months to allow for the possibility of an appeal to be made and determined.

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

That concludes this determination.