

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

**Substantive Hearing  
Friday 9 October 2020**

**Virtual Hearing**

<b>Name of registrant:</b>	<b>Clare Elizabeth Bolton-Hill</b>
<b>NMC PIN:</b>	85I1544E
<b>Part(s) of the register:</b>	RN1: Registered Nurse – Sub Part 1 Adult – 22 March 1994 RN2: Registered Nurse Sub Part 2 Adult – 19 August 1988
<b>Area of registered address:</b>	Bristol
<b>Type of case:</b>	Misconduct
<b>Panel members:</b>	Nicola Jackson (Chair, lay member) Marcia Smikle (Registrant member) Catrin Davies (Lay member)
<b>Legal Assessor:</b>	Nicholas Levisaur
<b>Panel Secretary:</b>	Catherine Acevedo
<b>Nursing and Midwifery Council:</b>	Represented by Neil Jeffs, Case Presenter
<b>Mrs Bolton-Hill:</b>	Represented in absence by Sam Oestreicher, Unison
<b>Consensual Panel Determination:</b>	Accepted
<b>Facts proved:</b>	All
<b>Facts not proved:</b>	None
<b>Fitness to practise:</b>	Impaired
<b>Sanction:</b>	<b>Suspension order (3 months)</b>
<b>Interim order:</b>	<b>No order</b>

## **Details of charge**

*“That you, a registered nurse:*

- 1. On or around 6 December 2016, falsified the signature of Colleague A on an IPTG-01 Case Report Form.*
- 2. Your actions at charge 1 above were dishonest in that you intended to create the impression that the document had been signed by Colleague A when it had not.*

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

## **Consensual Panel Determination**

At the outset of this hearing, Mr Jeffs informed the panel that a provisional agreement of a Consensual Panel Determination (CPD) had been reached with regard to this case between the NMC and Mrs Bolton-Hill.

The agreement, which was put before the panel, sets out Mrs Bolton-Hill’s ‘full admissions to the facts alleged in the charges, that her actions amounted to misconduct, and that her fitness to practise is currently impaired by reason of that misconduct. It is further stated in the agreement that an appropriate sanction in this case would be a suspension order for a period of 3 months.

The panel has considered the provisional CPD agreement reached by the parties.

That provisional CPD agreement reads as follows:

*“The Nursing and Midwifery Council [“NMC”] and Mrs Clare Elizabeth Bolton-Hill, PIN 8511544E [“the Parties”] agree as follows:*

*1. Mrs Bolton-Hill admits the following charges:*

*That you, a registered nurse:*

- 1. On or around 6 December 2016, falsified the signature of Colleague A on an IPTG-01 Case Report Form.*
- 2. Your actions at charge 1 above were dishonest in that you intended to create the impression that the document had been signed by Colleague A when it had not.*

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

***Agreed Facts***

- 2. Mrs Bolton-Hill was employed as a research nurse based at Brockway Medical Centre [“the Practice”] from January 2014 until her resignation in January 2017.*
- 3. Mrs Bolton-Hill’s role included identifying potential research participants, providing them with care, and collecting and processing data. Mrs Bolton-Hill was responsible for completing patient records and forms relating to the research studies, which would be used for analysis.*
- 4. In her first reflective piece, Mrs Bolton-Hill explains difficulties she had at work as a result of a lack of support being provided to her by Colleague B (Mrs Bolton-Hill’s line manager and doctor responsible for the majority of research projects at the Practice), and high workloads. These concerns are*

*echoed in the witness statement of Colleague A, in which he made the following comments:*

*“Prior to [Mrs Bolton-Hill] leaving, she told me that she had too much work to do and that she did not feel supported. My partners and I had on a number of occasions asked [Colleague B] to alter the way research was organised at the practice, which would have made [Mrs Bolton-Hill’s] workload more manageable. However, I do not believe that [Colleague B] took this advice on board.*

*Following [Colleague B’s] departure from the surgery, it became clear that [Colleague B] had taken on too many research projects and was managing projects in a haphazard, chaotic way. I believe that [Mrs Bolton-Hill] had a difficult working environment and I believe it is likely that this may have led to her cutting corners. However, [Mrs Bolton-Hill] should not have been forging the signatures of others.*

*[Mrs Bolton-Hill] was a good colleague, was professional and was respected by patients and I therefore believe that this was an isolated incident. I have no further concerns regarding Mrs Bolton-Hill’s fitness to practise.”*

- 5. In February 2017 and May 2017, the Practice received breach notifications from their research sponsors. These notifications were warnings issued when the body running the project is suspected of not complying with the strict procedures of the study. One notification related to signatures possibly being forged, the other related to the adequacy of record keeping.*
- 6. As a result of the notifications, the Practice conducted a review into the research documentation.*

### *Charge 1*

7. *During this review, it was identified that Mrs Bolton-Hill falsified the signature of Colleague A, a GP at the Practice, on an IPTG-01 case report form, dated 6 January 2016. This form should have been signed by a doctor, and could not be signed by a nurse.*
  
8. *Mrs Bolton-Hill accepts that she falsified Colleague A's signature on this form. In her reflective piece, she explains that she did this because she was under pressure to return the research paperwork and it had not been signed by Colleague A.*

### *Charge 2*

9. *In relation to the question of dishonesty, the Parties have considered the Supreme Court's decision in Ivey v Genting Casinos [2017] UKSC 67 at paragraph 74:*

*When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual's knowledge or belief as the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.*

10. In t Mrs Bolton-Hill's reflective piece, she states that when she was preparing the documentation to be submitted to the study manager, she "noted there was a signature still missing and I made an incredible error of judgement by signing the form myself...to expedite the administrative process."

11. Mrs Bolton-Hill accepts that by falsifying Colleague A's signature on the case report form, she acted dishonestly as her intention was to create the impression that the document had been signed by a doctor as required, when it had not.

### **Misconduct**

12. The Parties agree that Mrs Bolton-Hill's actions amount to misconduct.

13. The Parties have considered the definition of misconduct given by Lord Clyde in *Roylance v General Medical Council (No 2)* [2000] 1 AC 311, Lord Clyde framed the meaning of misconduct in the following way:

*"Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances."*

14. The Parties agree that Mrs Bolton-Hill's actions amount to breaches of the following sections of *The Code: Professional standards of practice and behaviour for nurses, midwives, and nursing associates*:

10 Keep clear and accurate records relevant to your practice

...

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

*13 Recognise and work within the limits of your competence*

*...*

*13.3 ask for help from a suitably qualified and experienced professional to carry out any action or procedure that is beyond the limits of your competence*

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

*20.1 keep to and uphold the standards and values set out in the Code*

*20.2 act with honesty and integrity at all times...*

*15. The Parties agree that Mrs Bolton-Hill's actions in this case, falsifying the signature of a colleague on documentation prepared for a research study, are extremely serious. Her actions fell far below the standard expected of a registered nurse.*

### ***Impairment***

*16. The Parties agree that Mrs Bolton-Hill's fitness to practise is impaired by reason of her misconduct.*

*17. The Parties have considered the questions posed by Dame Janet Smith in the Fifth Shipman Report, endorsed by Cox J in Council for Healthcare Regulatory Excellence v (1) NMC (2) Grant [2011] EWHC 927 (Admin).*

*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 professions 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 professions; and/or*

*d) Has in the past acted dishonestly and/or is liable to act dishonestly in the future?*

*18. Mrs Bolton-Hill's actions amount to professional misconduct, which is so serious that it would undermine public confidence in the profession. Honesty and integrity are fundamental tenets of the nursing profession, which Mrs Bolton-Hill has breached as a result of her dishonest action. The Parties agree that limbs B-D are engaged.*

*19. The parties have considered the questions posed by Silber J in Cohen v General Medical Council [2007] EWHC 581 (Admin), which he described as being 'highly relevant' to the determination of the question of current impairment:*

- 1. Whether the conduct that led to the charge(s) is easily remediable*
- 2. Whether it has been remedied*
- 3. Whether it is highly unlikely to be repeated*

*20. Mrs Bolton-Hill's actions were dishonest. The Parties agree that dishonesty is difficult, albeit not impossible, to remediate as it is an attitudinal failing.*

*21. Mrs Bolton-Hill discusses in her first reflective piece the difficult environment in which she was working and how this led to her deciding to falsify Colleague A's signature when she was under pressure to return research documentation to the study manager.*

*22. Mrs Bolton-Hill expresses remorse in relation to her actions, and demonstrates insight into how she found herself in a situation where she was unable to keep up with her work and how she would deal with this differently in the future. She notes that she did not feel able to say no to her manager. She acknowledges that she should have been more assertive. In her second reflective piece, Mrs*

*Bolton-Hill explains that she has undertaken assertiveness training, and further reflects on how she would act differently should she find herself in a similar situation. Mrs Bolton-Hill demonstrates an awareness that her actions, and her lack of honesty, damaged the reputation of the profession. She explains that she feels shame, regret, and remorse for her actions, and for letting the public and the profession down. She accepts that the situation was avoidable and that she is the only person to blame for her actions. The Parties agree that, notwithstanding the general difficulties with remediating dishonesty, the Registrant's insight into these incidents is well developed. In light of this, and taking into account the very difficult context in which she was working, it is unlikely that the misconduct will be repeated.*

*23. The parties have also considered the comments of Cox J in Grant at paragraph 101:*

*The Committee should therefore have asked themselves not only whether Mrs Bolton-Hill continued to present a risk to members of the public, but whether the need to uphold proper professional standards and public confidence in Mrs Bolton-Hill and in the profession would be undermined if a finding of impairment of fitness to practise were not made in the circumstances of this case.*

*24. Whilst the Parties agree that Mrs Bolton-Hill's actions did not place any patients at risk, and that there is no evidence to suggest she might pose a risk to patients in the future, it is agreed that given the seriousness of the misconduct, public confidence in the profession would be undermined if a finding of impairment were not made.*

*25. For these reasons, the Parties agree that Mrs Bolton-Hill's fitness to practise is currently impaired.*

## **Sanction**

26. *The Parties agree that the appropriate sanction in this case is a 3 month suspension without a review prior to its expiry.*

27. *The Parties have considered the NMC's Sanctions Guidance ["SG"]. The Parties note that the purpose of a sanction is not to be punitive, although they acknowledge it may have that effect. The Parties note that any sanction imposed must be proportionate. Taking into account all of the circumstances in the case, the Parties agree that a suspension order without a review is the appropriate and proportionate outcome in light of the misconduct in this case.*

28. *In assessing the appropriate sanction, the Parties have considered the aggravating and mitigating features of this case, in line with the relevant guidance in the SG:*

### *Aggravating features*

- *Dishonest conduct;*
- *Mrs Bolton-Hill abused the trust which had been placed on her by her employers.*

### *Mitigating features*

- *Mrs Bolton-Hill has made full admissions to the charges.*
- *Mrs Bolton-Hill has demonstrated remorse for her actions.*
- *Mrs Bolton-Hill has demonstrated insight into the concerns in her practise.*
- *Mrs Bolton-Hill has reflected on the circumstances which led to her dishonest acts and how she would ensure she did not find herself in a similar position in the future.*

29. *The parties have also considered the comments made by the Referrer [Appendix 3] when assessing the appropriate sanction.*

30. *The Parties have considered all available sanctions in ascending order.*
31. *The Parties agree that taking no further action would be insufficient given the seriousness of the misconduct in this case.*
32. *Forging a colleague's signature for convenience is likely to be viewed with disapprobation by members of the profession and the public. For this reason, the Parties agree that a caution order would not be adequate to mark the Registrant's serious misconduct.*
33. *The Parties further agree that a conditions of practise order would not be appropriate in this case. The case involves a conscious decision to falsify Colleague A's signature. Mrs Bolton-Hill knew at the time this was not appropriate. It would not be possible to formulate conditions which would address this deliberate act of dishonesty.*
34. *For this reason, the Parties agree that a suspension order is the appropriate sanction in this case. Mrs Bolton-Hill's misconduct was a single incident, but no lesser sanction would be sufficient. There is no evidence of repetition. The Parties agree that there is a low risk of repetition.*
35. *The Parties considered whether a striking off order would be appropriate in this case, but agreed it would be disproportionate. Mrs Bolton-Hill's actions whilst serious, are not fundamentally incompatible with ongoing registration.*
36. *The Parties agreed that a 3 month suspension order would be the appropriate and proportionate length, as this clearly marks the seriousness of her misconduct and declared proper standards, whilst also taking into account the fact that Mrs Bolton-Hill's actions did not put patients at risk of harm.*

37. *The proposed suspension order is on public interest grounds only, to mark the seriousness of the misconduct. At the end of the period of suspension, this will have been achieved. The Parties agree that in the light of Mrs Bolton-Hill's insight into concerns, and low risk of repetition, there is no need for the order to be reviewed prior to its expiry.*

### ***Interim Order***

38. *The Parties have considered whether an interim order should be imposed to cover the appeal period. The Parties agree that such an order would not be necessary. The Parties note there is no evidence of a risk to the public which would indicate such an order is necessary. There is a high bar which must be passed before a public interest only interim order is imposed, and the Parties agree that high bar is not met in this case.*

*The parties understand that this provisional agreement cannot bind a panel, and that the final decision on findings impairment and sanction is a matter for the panel. The parties understand that, in the event that a panel does not agree with this provisional agreement, the admissions to the charges and the agreed statement of facts set out at section 2 above, may be placed before a differently constituted panel that is determining the allegation, provided that it would be relevant and fair to do so”.*

Here ends the provisional CPD agreement between the NMC and *Mrs Bolton-Hill*. The provisional CPD agreement was signed by *Mrs Bolton-Hill* and the NMC on 9 October 2020.

### **Decision and reasons on the CPD**

The panel decided to accept the CPD.

The panel noted that Mrs Bolton-Hill admitted the facts of the charges. Accordingly the panel was satisfied that the charges are found proved by way of Mrs Bolton-Hill's admissions, as set out in the signed provisional CPD agreement.

The panel heard and accepted the legal assessor's advice. Mr Jeffs referred the panel to the 'NMC Sanctions Guidance' (SG) and to the 'NMC's guidance on Consensual Panel Determinations'. He reminded the panel that they could accept, amend or outright reject the provisional CPD agreement reached between the NMC and Mrs Bolton-Hill. Further, the panel should consider whether the provisional CPD agreement would be in the public interest. This means that the outcome must ensure an appropriate level of public protection, maintain public confidence in the professions and the regulatory body, and declare and uphold proper standards of conduct and behaviour.

The panel took into account the submissions from Mr Jeffs on behalf of the NMC and from Mr Oestreicher on behalf of Mrs Bolton-Hill.

Mr Jeffs took the panel through the provisional CPD agreement, highlighting the agreed facts of the case, the need for a finding of impairment and the agreed upon appropriate sanction. Ms McLean invited the panel to adopt the CPD.

Mr Oestreicher informed the panel that this matter was scheduled and took place in January 2020. The panel at that hearing queried the need for a review of the CPD which meant that the case could not be concluded. The Covid-19 pandemic then occurred, which caused considerable delays to this matter being rescheduled. Mr Oestreicher informed the panel that Mrs Bolton-Hill has had to put her nursing career on hold for all of this time. He referred the panel to the agreed facts of the case, the need for a finding of impairment and the agreed appropriate sanction in the CPD. Mr Oestreicher invited the panel to adopt the CPD.

Mr Oestreicher referred the panel to the referrer's response to CPD which expressed the view that the sanction is 'far too harsh in the circumstances'. He submitted that they

represent the view of the Practice. He submitted that it is a matter for the panel to consider whether the suspension period is too long, bearing in mind it has been 10 months and factoring in the 28 day appeal.

Mr Oestreicher cautioned against rejecting the CPD and reconvening another hearing as it would not be in Mrs Bolton-Hill's interests to prolong these matters further. He submitted it would not be in the public interest or in the interests of the NMC.

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

The panel then went on to consider whether Mrs Bolton-Hill's fitness to practise is currently impaired. Whilst acknowledging the agreement between the NMC and Mrs Bolton-Hill, the panel has exercised its own independent judgement in reaching its decision on impairment.

In respect of misconduct, this case involves dishonesty committed whilst in the role of a registered nurse. It further noted the breaches of the Code as set out in the CPD agreement and was in agreement with these. The panel determined that Mrs Bolton-Hill's actions were a serious departure from the standards expected of a registered nurse and did amount to misconduct.

In this respect, the panel endorsed paragraphs 12 to 15 of the provisional CPD agreement in respect of misconduct.

The panel then considered whether Mrs Bolton-Hill's fitness to practise is currently impaired by reason of misconduct.

The panel determined that limbs b, c and d of the test set out in the case of *Grant* above are engaged in this case. Mrs Bolton-Hill has acted dishonestly in her role as a nurse and

in doing so has breached the fundamental tenets of the profession and brought the reputation of the profession into disrepute.

The panel noted that Mrs Bolton-Hill's misconduct did not involve her clinical skills. The panel noted that no patients were harmed as a direct result of her actions. The panel also acknowledged the significant insight, remorse and remediation Mrs Bolton-Hill has demonstrated in her reflective statements and took into account the difficult context in which Mrs Bolton-Hill was working. The panel agreed that it was unlikely that the misconduct would be repeated.

The panel therefore determined that there were no public protection issues in this case.

The panel determined that Mrs Bolton-Hill's fitness to practise is currently impaired solely on the ground of public interest. In this respect the panel endorsed paragraphs 16 to 25 of the provisional CPD agreement.

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

Having found Mrs Bolton-Hill'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 Bolton-Hill abused the trust which had been placed on her by her employers.

The panel also took into account the following mitigating features:

- Mrs Bolton-Hill has made full admissions to the charges.
- Mrs Bolton-Hill has demonstrated remorse for her actions.
- Mrs Bolton-Hill has demonstrated insight into the concerns in her practise.
- Mrs Bolton-Hill has reflected on the circumstances which led to her dishonest acts and how she would ensure she did not find herself in a similar position in the future.
- Mrs Bolton- Hill has undertaken assertiveness training.

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, an order that does not restrict Mrs Bolton-Hill'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 Bolton-Hill's dishonest misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mrs Bolton-Hill's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel is of the view that there are no practical 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 Bolton-Hill's registration would not adequately address the seriousness of this case.

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 was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register.

It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Mrs Bolton-Hill's case to impose a striking-off order.

Balancing all of these factors the panel agreed with the CPD that a suspension order would be the appropriate and proportionate sanction.

The panel noted the hardship such an order will inevitably cause Mrs Bolton-Hill's. However this is outweighed by the public interest in this case.

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

in determining the length of the order, the panel had particular regard to the response from the Executive Manager of the Practice which was prepared at very short notice overnight on 8- 9 October 2020. This had been approved by the General Practitioners at the Practice in which they said that “the recommended sanction is far too harsh in the circumstances”. The panel determined that a suspension order for a period of 3 months was appropriate in this case to mark the seriousness of the misconduct.

In accordance with Article 29 (8A) of the Order the panel may exercise its discretionary power and determine that a review of the substantive order is not necessary.

The panel determined that it made the suspension order having found Mrs Bolton-Hill’s fitness to practise currently impaired on the grounds of public interest alone. The panel was satisfied that the suspension order will satisfy the public interest in this case and will maintain public confidence in the profession(s) as well as the NMC as the regulator. Further, the suspension order will declare and uphold proper professional standards. Accordingly, the current suspension order will expire, without review.

The panel was satisfied that there was no requirement for the imposition of an interim order in this case, deciding it was not necessary for the protection of the public nor necessary to address the public interest. The panel therefore endorsed paragraph 37 of the CPD agreement.

This decision will be confirmed to Mrs Bolton-Hill in writing.