

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

**Substantive Hearing
1-2 July 2021**

Virtual Hearing

Name of registrant: Helen Elizabeth Kirkpatrick

NMC PIN: 94I0506E

Part(s) of the register: Registered Nurse - Children (September 1997)

Area of registered address: England

Type of case: Misconduct

Panel members: Florence Mitchell (Chair, Registrant member)
Dr Katharine Martyn (Registrant member)
James Hurden (Lay member)

Legal Assessor: Kenneth Hamer

Panel Secretary: Dilay Bekteshi

Nursing and Midwifery Council: Represented by Assad Badruddin, Case Presenter

Mrs Kirkpartrick: Present and represented by Neair Maqboul, Counsel instructed by the Royal College of Nursing (RCN)

Facts proved: 1), 2), 3)

Fitness to practise: Impaired

Sanction: Conditions of Practice Order (12 months)

Interim order: Interim Conditions of Practice Order (18 months)

Details of charge

That you, a registered nurse:

- 1 Between 21 August 2018 and 24 April 2019, on 22 occasions, accessed Patient X's records without clinical reason. **[PROVED BY WAY OF ADMISSION]**
- 2 Between 6 September 2018 and 25 April 2019, on 3 occasions, accessed Patient Y's records without clinical reason. **[PROVED BY WAY OF ADMISSION]**
- 3 Between 2.8.2017 and 4 December 2018 accessed one or more of the patient records, as set out in Schedule 1, without clinical justification. **[PROVED BY WAY OF ADMISSION]**

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

Schedule 1

- a. Patient 1 on 2 August 2017
- b. Patient 2 on an unknown date
- c. Patient 3 on 5 October 2017
- d. Patient 4 on 9 October 2017, 21 November 2017, 26 February 2018 and 15 March 2018
- e. Patient 5 on 9 October 2017 and 6 December 2017
- f. Patient 6 on an unknown date
- g. Patient 7 on an unknown date
- h. Patient 8 on an unknown date
- i. Patient 9 on 20 November 2017
- j. Patient 10 on 20 December 2017
- k. Patient 11 on 29 December 2017
- l. Patient 12 on 29 December 2017
- m. Patient 13 on 30 January 2018

- n. Patient 14 on 19 February 2018
- o. Patient 15 on 22 February 2018
- p. Patient 16 on 26 June 2018
- q. Patient 17 on an unknown date.
- r. Patient 20 on an unknown date
- s. Patient 21 on 18 October 2018
- t. Patient 22 on 31 October 2018
- u. Patient 23 on an unknown date
- v. Patient 24 on 4 May 2018, 11 July 2018 and 4 December 2018
- w. Patient 25 on an unknown date
- x. Patient 26 on an unknown date

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

At the outset of the hearing, Mr Badruddin on behalf of the Nursing and Midwifery Council (NMC) made a request that this case be held partly in private on the basis that proper exploration of your case involves your health conditions and personal circumstances. The application was made pursuant to Rule 19 of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Ms Maqboul, on your behalf, indicated that she supported the application to the extent that any reference to your health and personal circumstances should be heard in private.

Rule 19 states:

- '19.— (1) Subject to paragraphs (2) and (3) below, hearings shall be conducted in public.*
- (2) Subject to paragraph (2A), a hearing before the Fitness to Practise Committee which relates solely to an allegation concerning the registrant's physical or mental health must be conducted in private.*

- (2A) *All or part of the hearing referred to in paragraph (2) may be held in public where the Fitness to Practise Committee—*
- (a) *having given the parties, and any third party whom the Committee considers it appropriate to hear, an opportunity to make representations; and*
 - (b) *having obtained the advice of the legal assessor, is satisfied that the public interest or the interests of any third party outweigh the need to protect the privacy or confidentiality of the registrant.*
- (3) *Hearings other than those referred to in paragraph (2) above may be held, wholly or partly, in private if the Committee is satisfied—*
- (a) *having given the parties, and any third party from whom the Committee considers it appropriate to hear, an opportunity to make representations; and*
 - (b) *having obtained the advice of the legal assessor, that this is justified (and outweighs any prejudice) by the interests of any party or of any third party (including a complainant, witness or patient) or by the public interest.*
- (4) *In this rule, “in private” means conducted in the presence of every party and any person representing a party, but otherwise excluding the public.’*

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may

hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

Having heard that there will be reference to your health condition and personal circumstances, the panel determined to hold such parts of the hearing in private.

Facts

At the outset of the hearing, the panel heard from Ms Maqboul, who informed the panel that you made full admissions to charges 1), 2) and 3).

The panel therefore finds all charges proved in their entirety, by way of your admissions.

Background

The charges arose whilst you were employed as a registered nurse by Nottingham Trust University Hospital (the Trust) from July 2009. You were referred to the NMC on 5 September 2019 by Ambulatory Care Unit at the Trust. The allegation is that whilst you were employed by the Trust, on multiple occasions you breached the Trust's data protection and confidentiality policy.

In April 2019 a complaint was received via Patient Advice and Liaison Service (PALS) that a service users' medical records may have been accessed with no clinical need. During the local investigation it was established that you had accessed various electronic patient records without appropriate authority and against Trust policy.

The incidents alleged were that on 22 occasions, you accessed the medical records of Patient X who is your ex-partner, between the 21 August 2018 and the 24 April 2019 with no clinical reason to do so. You allegedly accessed the medical records of an adult female patient (Patient Y, the wife of Patient X), between 6 September 2018 and 25 April 2019 with no clinical reason to do so. You allegedly viewed confidential patient information for Patient Y on a total of three occasions. You confirmed in your statement

that you had accessed the records of Patient X and Y to ascertain if their respective home addresses had been consistent during this time period.

It was also established that a further 24 patient records were accessed. This breakdown included checking the addresses of a further three to four other patients' records within the previous two years with whom you had contact with via an online dating website. Your rationale for accessing the patient records was to provide a safety element for your online dating, as you are a single parent and you wished to keep her child safe.

On 6 December 2019, you ceased employment with the Trust.

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 your fitness to practise is currently impaired.

The panel heard oral evidence from you and received substantial documentation including a reflective statement, a reading list, training certificates and testimonials. The panel carefully considered all the evidence before it, both documentary and oral.

There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

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, your 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 Badruddin invited the panel to take the view that the facts admitted by you amount to misconduct. The panel had regard to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015)' (the Code) in making its decision.

Mr Badruddin submitted that your actions in relation to working on the care unit whilst accessing around 28 different confidential patient records over a period of 16 months without proper clinical reasons but instead for your own personal use fall significantly short of what is expected of a registered nurse. He submitted that all patients have the right to confidentiality and that medical practitioners including nurses have the duty to maintain patient confidentiality and only accessing the records when there is clinical justification. He submitted that in this case, to localise the standard would be to look at the Information Governance Policy which states that employees working for the trust are to only access the information including electronic information for the sole purpose of performing their professional role. He submitted that there are no circumstances under the General Data Protection Regulation (GDPR), the Trust's policies, your job description or the mandatory training documents which would allow a registered nurse to access the information that was accessed in this case.

Mr Badruddin identified the specific, relevant standards where your actions amounted to misconduct. He submitted that you had fallen below the standards expected of a registered nurse, and that the charges found proved are contrary to paragraphs 4, 5, 5.1, 5.2, 19, 20, 20.1, 20.3, 20.6, 20.8 of the Code, Mr Badruddin submitted that the

panel could be satisfied that your conduct has breached various sections of the Code and amount to misconduct and that your actions amount to a significant departure from the high standards of trust and integrity expected of a registered nurse.

Ms Maqboul referred the panel to the case of *Cohen and the General Medical Council* [2008] EWHC 581 (Admin). She invited the panel to take into account that you previously had an unblemished record since qualifying as a registered nurse in 1997. She further referred the panel the case of *Grant* [2011] EWHC 927 (Admin). She submitted that there is no reference to dishonesty within the allegations before the panel. She told the panel that misconduct is accepted and that your conduct has fallen significantly short of what is expected of a registered nurse, however, she submitted that your conduct can be remediated.

Submissions on impairment

Mr Badruddin 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 *Grant* [2011] EWHC 927 (Admin). He submitted that three limbs of the test set out in *Grant* were engaged in this case.

Mr Badruddin submitted that the public protection concerns are engaged as your actions seriously undermined the trust of healthcare professionals. He submitted that people need to be open and honest with healthcare professionals and they are less likely to do so if they consider that their personal and sensitive information will be accessed and used improperly. He submitted that this will have a negative effect on the nursing and medical profession as it will discourage people using services and that could put their health at risk. He told the panel that people are less likely to provide information about their condition if they believe it would be shared, accessed or provided to external parties. He submitted that this is a fact you have accepted in your reflective piece and oral evidence.

Mr Badruddin submitted that the reputation of the nursing profession would be damaged if you were allowed to practise unrestricted. He told the panel that the public expects nurses to maintain confidential information and not to abuse their position of trust. He submitted that your failings in this case relate directly to core nursing practises and in the light of your failings, a finding of current impairment is necessary to declare and uphold standards. He told the panel that you were trained and fully aware of your duties as a registered nurse but that you deliberately discarded them systematically over a period of 16 months.

Mr Badruddin submitted that the NMC have acknowledged your insight and remediation; evidenced by engaging with the NMC and your employer, providing numerous reflective pieces, positive testimonials and training certificates. However, he submitted that you have not had access to an electronic data base in your current role, therefore demonstrating little evidence of managing confidential patient information correctly.

Mr Badruddin submitted that the NMC's position is that it would undermine the professional standards and public confidence in the nursing profession and the NMC as a regulator if a finding of impairment was not made in this case.

Ms Maqboul submitted that your fitness to practice is not currently impaired. She submitted that the panel would be aware that the question it must consider today is whether it considers you are able to remain on the register without any restriction and that it must consider your remediation and insight that you have shown.

Ms Maqboul referred the panel to your reflective pieces and told the panel that they are comprehensive documents that go into detail about the wrongdoing and how that has been rectified. She further referred the panel to the number of training certificates in relation to the areas of concern. She told the panel to take into account your personal circumstances that you were going through during the time. She told the panel that your response to Mr Badruddin and the panel's questions were robust and that you accepted you had put patients at risk. She submitted that the documentation before the panel suggest that you are deeply remorseful and have shown significant insight. She further

submitted that you are trust worthy and that you do have access to paper records and that whilst it is suggested that you can't be trusted because you do not have access to electronic records, she invited the panel to balance that with the trust your employer is putting on you by allowing you to access paper records considering that your employer is aware of the allegations you are facing.

[PRIVATE] She further told the panel that in your oral evidence and written documentation you have discussed the effect your actions have had on the nursing profession and the service users. You said what you had done was devastating and that you would feel the same if someone had accessed your records and that you had no right to do what you did. Ms Maqboul submitted that you have shown significant insight and invited the panel to consider what more can you possibly do to demonstrate that you are not the same person that you were three years ago.

Ms Maqboul asked the panel to carefully consider your remorse, insight and remediation that you have demonstrated in your oral and written evidence. She invited the panel to find that there is no risk to the public and the reputation of the profession should the panel find no impairment in this case. She submitted that a member of the public who was aware of all the matters would be satisfied that there would be no damage to the reputation of the profession and that the public protection element would not be concerned at this stage. Ms Maqboul, therefore, invited the panel to find that there is no impairment in this case.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Grant* [2011] EWHC 927 (Admin). *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311.

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 your actions did fall significantly short of the standards expected of a registered nurse, and that your actions amounted to a breach of the Code. Specifically:

4 Act in the best interests of people at all times

5 Respect people's right to privacy and confidentiality

To achieve this, you must:

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

5.2 make sure that people are informed about how and why information is used and shared by those who will be providing care

10 Keep clear and accurate records relevant to your practice

To achieve this, you must:

10.5 take all steps to make sure that records are kept securely

10.6 collect, treat and store all data and research findings appropriately

19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice

'20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

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

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

20.6 stay objective and have clear professional boundaries at all times with people in your care (including those who have been in your care in the past), their families and carers

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that to breach patients' confidentiality is serious. Registered nurses are in a position of trust and are privy to

handling sensitive information and should only utilise the information when it is required in the context of their clinical practice. The panel noted that you had accessed patients' records over an extensive period of time and you were overstepping boundaries in terms of your professional and personal needs. The panel concluded that you have been in practice for over 20 years and that you are familiar with electronic record keeping and therefore it should have been second nature to your practice. The panel carefully considered your personal circumstances at the time, however, it found that your actions did fall seriously short of the conduct and standards expected of a nurse and amounted to serious misconduct.

Decision and reasons on impairment

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

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

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

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

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

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

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

The panel finds that patients were put at indirect risk of harm as a result of your misconduct. Your misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. The panel were of the view that if you breach confidentiality and trust, patients are less likely to confide in you with relevant information that may be required as part of the care. As a nurse, you explore sensitive and distressing information and for that reason you must have the confidence of patients, you must not abuse or misuse the information and your patients' need to be confident that you will handle their information sensitively, correctly and professionally, which you had failed to do.

Regarding insight, the panel considered that you have accepted that you accessed patient medical records without clinical justification. You have apologised profusely,

acknowledging that your actions were wrong and that you have accepted responsibility for your actions. The panel also bore in mind the personal and family circumstances that you were experiencing at the time of the events and the impact of these matters on your health. The panel also noted that you have provided a detailed reflective account of the incidents and have reflected on the implications to service users, nursing profession along with your personal and professional reputation. You have also engaged with the local and NMC investigation.

However, the panel are of the view that you were not able to explain fully why you chose to consciously act against your training and your legal obligations in data protection by accessing patients' records inappropriately over an extended period of time. The panel concluded that as you are unable to articulate why you made this choice, you have not achieved full insight into your misconduct, which would require understanding of your motivation to knowingly disregard your training and extensive clinical experience. The panel determined that without such insight, there remains a risk of repetition of your misconduct.

The panel were of the view that your actions have brought the profession into disrepute and that members of the public would expect nurses only to be accessing confidential medical information for proper nursing purposes. Your actions were not used for nursing purposes and therefore reflects poorly on the reputation of the nursing profession. It is the fundamental tenet of the profession to safeguard the clinical information of patients at all times. The panel were of the view that, by breaching trust and confidentiality, the risk to patients' is that they will not disclose important information that is required for their care. The panel further noted you are a paediatric nurse working in a paediatric setting and that there was no reason for you to access adult patients' records not related to your sphere of work. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public

confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that a finding of impairment on public interest grounds is required as the public would have less confidence in the NMC as a regulator were they not to take action against nurses who systematically and knowingly breached their obligation to protect patients' records. The panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired.

Sanction

The panel has considered this case very carefully and has decided to make a conditions of practice order for a period of twelve months. The effect of this order is that your name on the NMC register will show that you are subject to a conditions of practice order and anyone who enquires about your registration will be informed of this order.

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 Badruddin informed the panel that in the Notice of Hearing, dated 27 May 2021, the NMC had advised you that it would seek the imposition of a suspension order and for a period of six to ten months. He submitted that this will address your misconduct and impairment whilst protecting patients, upholding the public interest, the nursing profession and the NMC as its regulator.

Mr Badruddin outlined the aggravating and mitigating features of the case. He submitted that given the panel's finding on impairment, it would be necessary to protect the public

and uphold standards in the nursing profession and on that basis taking no action was not appropriate. He further submitted that given the fact that you still need more time to remedy the deficiencies in your practice, this sanction was not appropriate in this case.

Mr Badruddin submitted that a caution order would not address the concerns in this case and that it is aimed for misconduct on the lower end of the spectrum. He submitted that it would not provide the necessary protection and uphold public confidence in the nursing profession. He further submitted that a conditions of practice order would not be the appropriate or proportionate sanction as this case does not involve clinical concerns and therefore there are no workable, measureable or proportionate conditions to address your fitness to practice issues. He submitted that your misconduct relates to basic areas of knowledge and fundamental areas of the nursing practice. He therefore submitted that there are no conditions to monitor or restrict you from breaching confidentiality or accessing records for your own personal use.

Mr Badruddin invited the panel to consider a suspension order in this case. He submitted that a suspension order is the most appropriate sanction because it would be necessary to mark the seriousness of your misconduct and address the public interest as well as to protect the public by addressing the residual risk of repetition. He submitted that although you have developed some insight, you have yet to identify the motivations of your actions.

Ms Maqboul's submitted that you accept the panel's decision on impairment in its entirety. She submitted that the aggravating factors listed by Mr Badruddin are present in this case and that the most serious element of the case is that you abused your position of trust by accessing patients' records. Ms Maqboul asked the panel to consider all the documentation provided by you. She submitted that there is significant mitigation present in this case, particularly, your personal circumstances at the time of the events.

Ms Maqboul submitted that she endorsed the NMC's reasoning on why conditions of practice order should not be imposed. She submitted that the panel are left between a caution order and a suspension order. She submitted that a suspension order is excessive in this case and therefore invited the panel to consider a caution order. She

submitted that there has been wrongdoing on a significant scale, however, she asked the panel to balance that with the insight and remediation you have shown.

Ms Maqboul submitted that despite these serious allegations, you have been allowed to practise without restriction and that there is no suggestion that there has been a repetition of the alleged concerns. She submitted that this may assure the panel in terms of how you would behave moving forward. She further submitted that you have had a lengthy career as a registered nurse without any incidents other than the referral the panel is considering today. She submitted that this should be a good indicator to the panel on how you will conduct yourself in the future.

Ms Maqboul submitted that you are working in a role where trust is the forefront of everything you do. She told the panel that your work involves a two way relationship of trust between you and the families you work for. She told the panel that you are working with a family whose thirteen year old who is in receipt of end of life care. You have been in the role for the last four months, that during this time you have gained the trust of the family and that the family relies on you. She therefore submitted that if you were suspended there would be service users who would suffer as a result of your temporary removal from the register.

Ms Maqboul submitted that a suspension order would not provide the panel with anything of substance in terms of what you have done to be able to better understand the reasons why you did what you did. [PRIVATE] She submitted that a temporarily removal from the register will leave you in significant financial hardship.

For all of those reasons, Ms Maqboul invited the panel to consider a sanction on the lower end of the scale. She submitted that it would be difficult for you to continue in the role you are currently in if you are subject to conditions of practice order because you are often the sole nurse on duty and that the relationship with the families you take care of are often one on one. She further submitted that if the panel decide to impose a conditions of practice, any conditions that deal with the clinical aspect of the role are not necessary. However, if the panel are of the view that a reflective piece would be beneficial for a future reviewing panel, you are happy to comply with this.

Ms Maqboul therefore invited the panel to impose a caution order.

Decision and reasons on sanction

Having found your fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel considered that any sanction imposed must be appropriate and proportionate. 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:

- Misconduct over a period of sixteen months
- Systematic and relatively long-standing breaches in disregard of patients' confidentiality
- A breach of professional boundaries
- A breach of a position of trust
- Limited insight into the motivations of your actions
- Disregard of GDPR training by an experienced nurse

The panel also took into account the following mitigating features:

- Engaged with your employer's disciplinary process, even after you ceased working with the Trust
- Admissions to all charges
- Demonstrated developing insight
- Apologised and demonstrated remorse
- Your personal circumstances and any health issues when the incidents took place
- Your present personal circumstances

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, and the public protection issues identified, an order that does not restrict your 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 your 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 your registration would be a sufficient and appropriate response. The panel considered the submissions and the fact that you are a sole worker within people's homes. However, you confirmed in your evidence that you have a line manager. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular:

- *No evidence has been presented of harmful deep-seated personality or attitudinal problems;*
- *There is an identifiable area of your practice in need of assessment, namely your management of confidential information;*
- *There is no evidence of general incompetence, in fact your colleagues and manager have spoken of your abilities as a nurse in positive terms;*
- *You have demonstrated from your self-directed learning a potential and willingness to respond positively to retraining;*
- *Patients will not be put in danger either directly or indirectly as a result of the conditions and the conditions of this order increase the oversight by your line manager of your practice;*

- *The conditions will protect patients during the period they are in force; and*
- *Conditions specific to the panel's concerns can be created that can be monitored and assessed.*

The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel have little doubt that you would be willing to comply with conditions of practice. The panel was of the view that it was in the public interest that, with appropriate safeguards, you should be able to return to practice as a nurse.

The panel were of the view that your actions were unacceptable and it should not have happened over a substantial period of time. However, the panel had regard to your insight and remediation, testimonials from your current employer, your personal circumstances and health at the time of the events, and the fact that you have had an unblemished career of over 20 years as a child nurse.

Balancing all of these factors, the panel determined that that the appropriate and proportionate sanction is that of a conditions of practice order.

The panel was of the view that to impose a suspension order would be disproportionate and would not be a reasonable response in the circumstances of your case given the fact that you have worked as a registered nurse without restriction in sensitive clinical areas and that the testimonials provided by your employer suggest that you are a valued member of the team and that you are highly regarded by the parents of the children, young adults in your care for, and by your colleagues. Having regard to the matters it has identified, the panel has concluded that a conditions of practice order will mark the importance of maintaining public confidence in the profession, and will send to the public and the profession a clear message about the standards of practice required of a registered nurse.

The panel determined that the following conditions are appropriate and proportionate in this case:

‘For the purposes of these conditions, ‘employment’ and ‘work’ mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, ‘course of study’ and ‘course’ mean any course of educational study connected to nursing, midwifery or nursing associates.’

1. You must complete a list of any patient whose clinical records, both digital and physical (paper) records of information that you access and are subject to confidential obligations. You will meet your Line Manager at least once every three months to discuss this list and formal written records of these meetings will be completed. These meetings will consist of a review of the patient’s clinical records you have accessed since the last meeting including an explanation as to why these were accessed. A full copy of the records of these meetings and your explanation will be provided to the NMC prior to any review.
2. You must keep a reflective practice profile. The profile must consist of how you applied your GDPR and data protection training in your clinical practice. You must provide your NMC case officer with a reflective piece prior to any review.
3. [PRIVATE]
4. You must keep the NMC informed of any nursing appointment (whether paid or unpaid) you accept within the UK or elsewhere, and provide the NMC with contact details of your employer.
5. You must tell the NMC about any professional investigation started against you and/or any professional disciplinary proceedings taken against you within seven days of you receiving notice of them.
6.
 - a. You must keep the NMC informed when accepting any post of employment requiring registration with the NMC, or any course of study connected with nursing, and provide the NMC with the name/contact details of the individual or

organisation offering the post, employment or course of study.

- b. You must keep the NMC informed when entering into any arrangements required by these conditions of practice and provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement.

7. You must immediately tell the following parties that you are subject to a conditions of practice order under the NMC's fitness to practise procedures and disclose the conditions listed at (1) to (4) above, to them:

- a) Any organisation or person employing, contracting with or using you to undertake nursing work
- b) Any agency you are registered with or apply to be registered with (at the time of application) to provide nursing or midwifery services
- c) Any prospective employer (at the time of application) where you are applying for any nursing or midwifery appointment
- d) Any educational establishment at which you are undertaking a course of study connected with nursing, or any such establishment to which you apply to take a course (at the time of application).

The period of this order is for twelve months.

Before the order expires, a panel will hold a review hearing to see how well you have complied with the order. At the review hearing the panel may revoke the order or any

condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

Any future panel reviewing this case would be assisted by:

- Continued engagement with the NMC.
- Evidence of professional development, including documentary evidence of completion of the above mentioned.
- Testimonials from a line manager or supervisor that detail your current work practices.
- A further reflective piece in which you explore your choice to ignore your training in the management of confidential information, what motivated this and what you would do to prevent this from occurring in the future.

This will be confirmed to you in writing.

Interim order

As the conditions of practice 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 your own interests until the conditions of practice 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 Badruddin. He submitted that an interim order is necessary to protect the public and otherwise in the public interest for the reasons identified by the panel earlier in their determination until the substantive conditions of practice order comes into effect. He therefore invited the panel to impose an interim conditions of practice order for a period of 18 months to cover the 28 day appeal period and any period of appeal.

Ms Maqboul, on your behalf, submitted that there is no objection to this application.

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 the only suitable interim order would be that of a conditions of practice order, as to do otherwise would be incompatible with its earlier findings. The conditions for the interim order will be the same as those detailed in the substantive. The period of that order is 18 months, to allow for the time which may elapse before an appeal may be heard.

The panel is satisfied that this order, for this period, is appropriate and proportionate in the circumstances of your case.

If no appeal is made, then the interim conditions of practice order will be replaced by the substantive conditions of practice order 28 days after the decision of this hearing in writing is sent to you.

That concludes this determination.