

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

**Substantive Hearing
Thursday 16 September 2021**

Nursing and Midwifery Council
Virtual Hearing

Name of registrant:	Miss Noxolo Kimberly Zibane
NMC PIN:	18J0046O
Part(s) of the register:	Nursing, Sub part 1 RN1, Adult nurse (1 October 2018)
Area of registered address:	Surrey
Type of case:	Misconduct
Panel members:	Rachel Ellis (Chair, lay member) John McGrath (Registrant member) Alex Forsyth (Lay member)
Legal Assessor:	Richard Tyson
Panel Secretary:	Parys Lanlehin-Dobson
Nursing and Midwifery Council:	Represented by Sophia Kerridge, Case Presenter
Miss Zibane:	Not present nor represented in absence
Consensual Panel Determination:	Accepted
Facts proved:	All
Facts not proved:	None
Fitness to practise:	Impaired
Sanction:	Suspension order (6 months)
Interim order:	Interim suspension order (18 months)

Decision on Service of Notice of Hearing

In response to the current COVID-19 crisis, emergency changes were made to the Nursing and Midwifery Council (Fitness to Practise) Rules 2004, as amended (the Rules). The emergency changes allow for the Notice of Hearing (the Notice) to be sent by the Nursing and Midwifery Council (NMC) by email instead of by recorded delivery post. This email must be sent securely to a confirmed email address for the registrant and/or representative.

Miss Kerridge, on behalf of the NMC, informed the panel that the Notice had been sent to Miss Zibane's registered email address on 18 August 2021. The Notice was also emailed to Miss Zibane's representative at the Royal College on Nursing (the RCN) on 18 August 2021

The panel took into account that the Notice provided details of the allegations, the time, dates and the nature of the hearing.

The panel accepted the advice of the Legal Assessor.

In the light of all of the information available, the panel was satisfied that Miss Zibane has been served with the Notice in accordance with the requirements of Rules 11A and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004, as amended (the Rules).

Decision on proceeding in the absence of Miss Zibane

The panel next considered whether it should proceed in the absence of Miss Zibane.

Miss Kerridge drew the panel's attention to an email, sent to the panel secretary, from Miss Zibane's representative, dated 15 September 2021 stating the following:

“I can confirm that the registrant will not be in attendance tomorrow and will not be represented in absentia. I am however available should the panel have any questions.

I hope this assists. “

Miss Kerridge submitted that it was in all parties’ interests to proceed today.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is one that should be exercised ‘*with the utmost care and caution*’ in accordance with the case of *R. v Jones (Anthony William), (No.2) [2002] UKHL 5*.

The panel noted that Miss Zibane was content for this hearing to proceed in her absence.

The panel decided to proceed in the absence of Miss Zibane. In reaching this decision, the panel considered the submissions of Miss Kerridge, and the advice of the legal assessor. It had particular regard to the factors set out in the decision of *Jones*. It had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Miss Zibane;
- Given that the Consensual Panel Determination: Provisional Agreement (CPD) sets out Miss Zibane’s position and her wish for the hearing to proceed in her absence, an adjournment would serve no useful purpose;
- There is a strong public interest in the expeditious disposal of the case.

In these circumstances the panel decided that Miss Zibane has voluntarily absented herself and that it is in the interests of justice to proceed in her absence.

Details of charge

That you, a registered nurse:

1. *Recorded that you had done observations during the night shift of 23/24 March 2019 in relation to Resident A when you had not at :*

a) 01:24

b) 02:35

c) 03:45

d) 07:41

2. *Your actions in charge 1 a)-d) above, were dishonest in that you sought to hide the fact that observations had not been done*

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, Miss Kerridge 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 Miss Zibane.

The agreement, which was put before the panel, sets out Miss Zibane'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 six 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 ('the NMC') and Noxolo Kimberly Zibane, PIN 18J00460 ('the Parties') agree as follows:

1. Miss Zibane is aware of the CPD hearing. Miss Zibane has indicated that she will not be in attendance the CPD hearing but that her representative will be available via telephone to address any questions the panel may have.. Miss Zibane understands that if the panel wishes to make amendments to the provisional agreement that she does not agree with, the panel will reject the CPD and refer the matter to a substantive hearing.

The charge

2. Miss Zibane admits the following charges:

That you, a registered nurse:

1. Recorded that you had done observations during the night shift of 23/24 March 2019 in relation to Resident A when you had not at:

a. 01:24

b. 02:35

C. 03:45

d. 07:41

2. Your actions in charge 1 a)-d) above, were dishonest in that you sought to hide the fact that observations had not been done.

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

The facts

3. *Miss Zibane appears on the register of nurses, midwives and nursing associates maintained by the NMC as a registered nurse and has been a registered nurse since 1 October 2018.*

4. *At all material times, Miss Zibane was employed by Belmont House Nursing Home ('the Home'), a 60 bedded care home for residents with nursing needs, including residents with dementia and those who require end of life care. The Home is split into three units over three floors, the residential unit on the ground floor, the dementia care unit on the first floor and the elderly care unit on the second floor.*

5. *On the night shift of 23 March 2019 to 24 March 2019, Miss Zibane had been scheduled to work in the elderly care unit on the second floor of the Home but at the start of her shift had been asked to swap to the dementia unit. Miss Zibane was the only registered nurse on the dementia unit that night and was working alongside a Senior Care Assistant (Colleague A). Colleague A was the only care assistant on the dementia unit that night, which is the usual staffing level for a night shift on the dementia unit.*

6. *It had been a busy night, with a hospital admission and several patients needing personal care through the night. Resident A was unwell and had been prescribed antibiotics for chest infection. As a result, Resident A required closer observation than usual. It was expected that staff would check residents hourly after administering medication, and Miss Zibane was aware of this expectation.*

7. *Resident A was given medication as prescribed around 23:50, as such, Resident A required hourly checks. Miss Zibane was busy with nursing tasks and delegated the hourly checks to Colleague A.*

8. Colleague A made notes that she had checked on Resident A at 12:57, 1:39, 2:07, 4:20, 6:27 and 7:10. Miss Zibane recorded observations for Resident A throughout the night noting that Resident A was asleep and well. Miss Zibane made the following records:

- On Saturday 23 March 2019:

- o 23:50 - 'Medication given as prescribed '

- o 23:50 - 'Had a glass of water, offered 80 ml, drank 50 ml.'

- On Sunday 24 March 2019

- o 01:24 - 'Checked, appeared to be asleep. Sleeping.'

- o 02:35 - 'Checked, appeared to be asleep. Sleeping. '

- o 03:45 - 'Checked, appeared to be asleep. Sleeping.'

- o 07:41 - '[Resident A] slept the whole night last night. He alternated between sleeping in his chair and bed. Medication given and taken well last night. He raised no complaints.,

9. On 24 March 2019, around 8:10am,. Resident A was found, by another staff member, seated on the toilet, and was pale white, with no pulse. A further staff member called the emergency services. The ambulance staff that attended the scene declared Resident A deceased and determined that Resident A had been dead for approximately 3 - 5 hours. The Police were called, and the incident was also reported to the Coroner.

10. On 3 April 2019, the Home commenced an internal investigation following the death of Resident A.

11. On 24 April 2019, the Deputy Manager held an investigatory meeting with Miss Zibane. At that meeting, Miss Zibane admitted that she had made false entries on Resident A's record because she relied on the entries made by Colleague A, who had also made false entries on Resident A's records. Miss Zibane confirmed that the last time she had actually checked on Resident A was early in the morning, approximately 12:30am.

Misconduct

12. The Parties agree that the facts amount to misconduct.

13. In the case of *Roylance v General Medical Council (No.2)* [2000] 1 AC 311, Lord Clyde defined misconduct as follows:

'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 the medical practitioner in the particular circumstances'

14. Where the acts or omissions of a registered nurse are in question, what would be proper in the circumstances (per *Roylance*) is to be answered by reference to the NMC's Code of Conduct. The following parts of the Code are engaged and have been breached in this case:

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.

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, treating people fairly and without discrimination, bullying or harassment.*

15. *On several occasions during the night shift, Miss Zibane recorded that she had observed Resident A, knowing she had not physically seen Resident A. Miss Zibane's actions were dishonest, as she knowingly made an inaccurate and false entry on Resident A's record, who was unwell and required hourly observations after he had been given medication. Recording observations that had not been carried out, for an unwell patient, who required hourly observations, placed the patient at risk of harm. In addition, it risks other medical professionals relying on those false entries, which also jeopardizes patient care and placed the patient at further risk of harm*

Impairment

16. *The parties agree that Miss Zibane's fitness to practise is currently impaired by reason of her misconduct.*

17. *In line with rule 31(7)(b) of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004, a departure from the Code is not of itself sufficient to establish impairment of fitness to practise, that question, like misconduct is a matter for the panel's professional judgment.*

18. *The Parties have considered the questions formulated by Dame Janet Smith in her Fifth Report from Shipman, approved in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) by Cox J. They are as follows:*

- *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*

- *Has in the past brought and/or is liable in the future to bring the professions into disrepute; and/or*
- *Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the professions; and/or*
- *Has in the past acted dishonestly and/or is liable to act dishonestly in the future?*

19. *The Parties agree that all 4 limbs in ,Grant are engaged. Although there was no evidence to suggest that Miss Zibane's actions contributed to the death of Resident A, recording a false entry that observations have been conducted placed the patient at an unwarranted risk of harm.*

20. *The public, quite rightly expect nurses to be honest. Dishonesty in a clinical setting, particularly when it involves the care of a vulnerable patient, brings the profession into disrepute.*

21. *Acting dishonestly is in itself also a breach of a fundamental tenet of the profession.*

22. *The Parties have also considered the case of Cohen v General Medical Council [2008] EWHC 581 (Admin), in which the court set out three matters which it described as being 'highly relevant' to the determination of the question of current impairment, namely:*

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

23. *The NMC's guidance states that dishonesty is a serious concern which is more difficult to remediate, particularly when 'it involves a vulnerable patient and causes a direct risk to that patient.*

Remediation, reflection, training, insight, remorse

24. *Miss Zibane has provided a reference, a training certificate relating to the duty of candour, and a reflective statement.*

25. *Clinical Matron, Daniella Myers stated in her reference for Miss Zibane:*

'Noxolo started work at St Helier Hospital A383 Orthopaedic Floor in April 2019, since she has been on the ward she has been an asset to the team. She is a great team player, hard work and is able to work independently.

She has very good communication skills both verbal and non-verbal. She is able to work within her own sphere of confidence and if she is unsure of something then she will always seek help from others.

Noxolo conducts herself in a professional manner at all times and does have her laid-back moments to make the patients feel more at ease. Noxolo is a very honest and responsible person and is able to manage the ward when required.

If Noxolo was to lose her PIN number it would be a loss to the nursing register because she displays the Nursing 6C's at all times and that's what is missing from nursing today.'

26. *Miss Zibane has shown insight into how her conduct affects patients, colleagues, and the reputation of the profession. Miss Zibane explained in her reflective statement that:*

I acknowledge that in not personally making the proper assessment and observations on the resident, my actions fell far below the standard set out in The Code and had cast a negative light on my profession.

[...]

Good record keeping is vital in the promotion and maintenance of patient safety. It also ensures continuity of care and is an important form of communication in nursing. Accurate record keeping is crucial in the healthcare profession as it has a ripple effect on the care and services that patients receive. Inaccurate recordings can result in patient harm, negligence, patients not receiving appropriate support and compromise investigations.

At the time of making the entries concerning the resident, I did not know that the information relayed to me and that was inputted by my colleague which I relied on was inaccurate. By recording that the observations were done when I had not personally done them was both dishonest and hid the fact that I had not done them. I should not have done that. There was just my colleague and I on duty on our floor with approximately 19 residents and due to prioritising watching a few residents with dementia who had sustained injuries from previous falls, who were high falls risks and were walking around, as well as an unwell resident who was waiting for an ambulance that night, I delegated the task of doing the observations on [Resident A] to my colleague who was qualified to perform these checks. Yes, I was stressed and under pressure, but I continually have the moral obligation to conduct myself honestly in all things."

27. *Whilst Miss Zibane may have been entitled to delegate observations to Colleague A, and would reasonably have expected them to have been completed as recorded, this does not negate her own responsibility to complete patient records accurately, and without falsification.*

28. *In addition, Miss Zibane has scored 100% in the assessment for a training course in duty of candour. However, the duty of candour is to be open and honest when mistakes have been made, and does not directly deal with falsifying a patient record. Nevertheless, Miss Zibane has shown that she has taken the matter seriously and is taking steps towards remediating her misconduct..*

29. *Although dishonesty, as demonstrate [SIC] in this case, is difficult to remediate, Miss Zibane has taken steps towards remediation, such that the risk of repetition has been lowered.*

Public protection impairment

30. *Miss Zibane has shown remorse and regret for her actions, and there is a clear indication as a result of her reflection and remedial training that the risk of repetition has been lowered. However, until Miss Zibane has demonstrated full insight on the impact of her actions and steps to ensure they would not be repeated in a similarly pressured situation, there still remains a risk to the public. As such, a finding of current impairment is necessary on the grounds of public protection.*

Public interest impairment

31. *In Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) at' paragraph74 Cox J commented that:*

"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."

32. *In accordance with the comments of Cox J, this is a case where a finding of current impairment is required to declare and uphold proper professional standards and public confidence, and protect the reputation of the nursing profession. Dishonesty by falsifying a patient's record is a serious concern and involves a serious breach of a fundamental tenet of the profession.*

33. *The Parties agree that a finding of impairment is also necessary on public interest grounds.*

Sanction

34. *The Parties agree that the appropriate sanction in this case is a suspension order for 6 months, with a review before expiry.*

35. *The aggravating feature in this case is dishonesty within a clinical setting.*

36. *The mitigating features in this case are as follows:*

- *Miss Zibane felt overwhelmed by the high number of patients under her care and the busyness of the shift.*
- *Early admission of the facts, in that Miss Zibane admitted at local level that she made false entries on Resident A's record.*
- *Miss Zibane has undertaken training in duty of candour.*

37. *The Parties have considered all sanction options open to the panel, starting with the least restrictive sanction.*

38. *The Parties have considered whether no further action should be taken. Sanctions guidance suggests this would not be appropriate in this case because action is warranted in order to maintain trust in nurses, and promote and maintain proper professional standards and conduct.*

39. *The Parties have considered whether a caution order is the most appropriate sanction in this case. The Parties noted the NMC's guidance on caution orders, which states that:*

"Because a caution order doesn't affect a nurse, midwife or nursing associate's right to practise, the Committee will always need to ask itself if its decision about the nurse, midwife or nursing associate's fitness to practise indicated any risk to patient safety."

40. *A caution order would mark the conduct as unacceptable, but is insufficient in light of the fact that the patient was placed at a risk of harm in this case. Furthermore, a caution order would not maintain the public trust in nurses, and/or promote and maintain proper professional standards and conduct of the nursing profession. As such, the Parties agree that a caution is not appropriate in the case, and some form of restriction on Miss Zibane's practice is required.*

41. *There are no areas of deficient clinical practice present in this case which might lend themselves to remedy by way of a conditions of practice order. Miss Zibane concealed the fact that no observations had been made by making false entries, there are no concerns regarding her clinical competence and as such it would be difficult to formulate conditions of practice that addresses the concern of dishonesty.*

42. *The Parties considered whether a suspension order would be appropriate and noted the NMC's guidance, which states that a suspension order:*

"[...] suspends the nurse, midwife or nursing associate's registration for a period of up to one year and may be appropriate in cases where the misconduct isn't fundamentally incompatible with the nurse, midwife or nursing associate continuing to be a registered professional, and our overarching objective may be satisfied by a less severe outcome than permanent removal from the register."

The guidance also provides a non-exhaustive list when considering whether a suspension order is appropriate, namely:

- *"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, midwife or nursing associate has insight and does not pose a significant risk of repeating behaviour"*

43. Although dishonesty in a clinical setting is a serious concern, and in some cases is not possible to remedy, the NMC's guidance provides that it will generally be less serious in cases of one-off incidents. Moreover, although dishonesty may suggest an underlying issue with attitude to people 'in Miss Zibane's care, it is noted that there is no suggestion of Miss Zibane engaging in similar conduct previously, and there is no evidence that the behaviour has been repeated since the incident. In addition, Miss Zibane has shown developing insight, remorse and is working towards remediation.

44. The Parties agree that a sanction of 6 months suspension takes into consideration the serious nature of the misconduct and the fact that Miss Zibane has acknowledged her wrongdoing. Further, it takes account that this was an isolated incident and that these proceedings have had an effect upon her whereby she does not pose a significant risk of repeating the behaviour.

45. The Parties agree that a review is also appropriate in this case. While Miss Zibane has undertaken training in the duty of candour, it does not show that Miss Zibane has fully remediated the concern of dishonesty. The duty of candour requires nurses to be open when mistakes have been made and does not completely address the

issue in this case, which is covering up the fact she had not done what she was required to do. As such, the Parties agree that a review will allow Miss Zibane the opportunity to persuade the Fitness to Practise Committee that the dishonesty in this case has been fully remediated and will not be repeated.

46. *In these circumstances, the Parties agree that a 6-month suspension with a review is both proportionate and appropriate to mark the serious nature of the misconduct and to protect the public.*

47. *The Parties considered whether a striking off order would be appropriate. Miss Zibane has demonstrated remorse, and is developing her understanding of the impact of her conduct on patients, colleagues, and the profession. She has also made clear her intentions of not repeating the misconduct. As such, a striking off order is not the only order that would protect the public and maintain confidence in the profession. The Parties therefore agree that such a severe order would not be appropriate at this time.*

Referrer's comments

48. *On 11 June 2021, the NMC asked the Referrer for comments in respect of this agreement. The NMC has not received any comments from the Referrer.*

Interim order

49. *An interim order is required in this case. The order is required for public protection and in the public interest (for the reasons given above). The order should be for a period of 18 months to guard against the risk to the public in the event that the Registrant seeks to appeal against the substantive order. The interim order should take the form of an Interim Suspension Order.*

50. *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 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 Miss Zibane. The provisional CPD agreement was signed by Miss Zibane and the NMC on 16 and 18 August 2021 respectively.

Decision and reasons on the CPD

The panel decided to accept the CPD.

The panel heard and accepted the legal assessor's advice. Miss Kerridge referred the panel to the 'NMC Sanctions Guidance' (SG) and to the 'NMC's guidance on Consensual Panel Determinations'. She reminded the panel that they could accept, amend with consent or outright reject the provisional CPD agreement reached between the NMC and Miss Zibane. 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 noted that Miss Zibane admitted the facts of the charges. Accordingly the panel was satisfied that the charges are found proved by way of Miss Zibane's admissions, as set out in the signed provisional CPD agreement.

Decision and reasons on misconduct and impairment

In respect of misconduct, the panel determined that the facts found proved by way of admission 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 went on to consider whether Miss Zibane's fitness to practise is currently impaired. Whilst acknowledging the agreement between the NMC and Miss Zibane, the panel has exercised its own independent judgement in reaching its decision on impairment. The panel determined that Miss Zibane's fitness to practise is currently impaired. In this respect the panel endorsed paragraphs 30 to paragraph 33 of the provisional CPD agreement.

The panel had regard to Miss Zibane's reflective statement and considered that she appeared to have remorse for her actions, however it was of the view that she is yet to demonstrate that she has sufficient insight into her dishonesty and how this poses a risk of significant harm. In this respect the panel considered there to be a risk of repetition of the matters found proved. For these reasons the panel determined that a finding of impairment is necessary on the grounds of public protection.

The panel was also of the view that until Miss Zibane can demonstrate full insight and remediate her misconduct a finding of impairment is necessary in the public interest, in order to maintain public confidence in the profession.

Decision and reasons on sanction

Having found Miss Zibane'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:

- Dishonesty within a clinical setting

- This case involved a vulnerable patient who Miss Zibane knew was suffering from a chest infection

The panel also took into account the following mitigating features:

- Miss Zibane felt overwhelmed by the high number of patients under her care and the busyness of the shift
- Early admission of the facts, in that Miss Zibane admitted at local level that she made false entries on Resident A's record
- Miss Zibane has undertaken training in duty of candour

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 Miss Zibane'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 Miss Zibane's 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 Miss Zibane'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 there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The misconduct identified in this case was not something that can be addressed through retraining.

Furthermore, the panel concluded that the placing of conditions on Miss Zibane's registration would not adequately address the seriousness of this case and would not protect the public.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:

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

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 Miss Zibane's case to impose a striking-off order. The panel was satisfied that in this case the misconduct was not fundamentally incompatible with remaining on the register.

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 Miss Zibane. 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.

The panel determined that a suspension order for a period of six months was appropriate in this case to mark the seriousness of the misconduct.

At the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- A further reflective statement detailing the impact of her dishonesty on patients, colleagues and the reputation of the profession.

This will be confirmed to Miss Zibane in writing.

Decision and reasons on interim order

As the suspension 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 Miss Zibane's own interest until the suspension sanction takes effect. The panel heard and accepted the advice of the legal assessor.

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 agreed with the CPD that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months.

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

That concludes this determination.