

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

**Substantive Hearing
Monday 29 November – Thursday 2 December 2021
Thursday 31 March – Friday 1 April 2022**

Virtual Hearing

Name of registrant: Amy Louise Collier

NMC PIN: 13F1700E

Part(s) of the register: Sub Part 1
RNA: Adult nurse (13 September 2013)
V300: Nurse independent/supplementary
prescriber (1 November 2018)

Area of registered address: Manchester

Type of case: Misconduct

Panel members: Louise Fox (Chair, lay member)
Natasha Duke (Registrant member)
Alison Hayle (Lay member)

Legal Assessor: Alain Gogarty

Panel Secretary: Catherine Acevedo

Nursing and Midwifery Council: Represented by Yusuf Segovia, Case Presenter

Miss Collier: Present and represented by Priya Khanna,
Counsel instructed by the Royal College of
Nursing (RCN)

Facts proved by admission: All

Facts not proved: None

Fitness to practise: Impaired

Sanction: **Suspension order (3 months with no review)**

Interim order: **Not necessary**

Decision and reasons on application to amend the charge

The panel heard an application made by Mr Segovia, on behalf of the Nursing and Midwifery Council (NMC), to amend the wording of charges 1a and 2.

It was submitted by Mr Segovia that the proposed amendments to charge 1a and 2 would provide clarity and more accurately reflect the evidence.

Original charge 1a

On 4/5 June 2018:-

- a) Asked Person B to book in a fictitious patient (Person A).

Proposed charge 1a

1. On 4/5 June 2018:-

- a) Asked **a colleague** to book in a fictitious patient (Person A).

Original charge 2

Your action(s) at any or all of 1 a) d) was/were dishonest in that:

- a) You intended to mislead Person B, and/or.
- b) You intended to mislead Ashton Walk-In Centre, and/or.
- c) You intended to mislead Person C.

Proposed charge 2

1. Your action at:

- a) **1a) was dishonest in that** you intended to mislead **a colleague**.
- b) **1b) was dishonest in that** you intended to mislead Ashton Walk-In Centre.
- c) **1c) and/or 1d) was dishonest in that** you intended to mislead Person C.

Ms Khanna, on your behalf, indicated that the application was not opposed.

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

The panel was of the view that such an amendment, as applied for, was in the interest of justice. The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore appropriate to allow the amendment, as applied for, to ensure clarity and accuracy.

Details of charge as amended

That you, a registered nurse:-

Ashton Walk-In Centre

1. On 4/5 June 2018:-

- a) Asked a colleague to book in a fictitious patient (Person A).
- b) Documented a 13:10 consultation with Person A that did not take place.
- c) Told Person C that you had performed a consultation with Person A.
- d) Asked Person C to prescribe Flucloxacillin for Person A

2. Your action at:

- a) 1a) was dishonest in that you intended to mislead a colleague.
- b) 1b) was dishonest in that you intended to mislead Ashton Walk-In Centre.
- c) 1c) and/or 1d) was dishonest in that you intended to mislead Person C.

Partington Family Practice

3. Around September 2018 gave Person D your personal medication.

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

Background

The charges arose whilst you were employed as a Primary Care Practitioner at Ashton Medical Centre and at Partington Family Practice.

On the 4/5 June 2018, at Ashton Medical Centre, you asked a colleague to book Person A onto the EMIS computer system. Person A was a friend of yours with an infected finger who you had seen that morning in a social setting. You assessed the finger and advised him he needed a GP appointment. However, when he told you that later that he had been unable to obtain a GP appointment, you chose to create a false consultation for him, and arrange for your colleague to prescribe antibiotics for him.

At Partington Family Practice, sometime in late September 2018, you provided the Practice Manager (Person D) with two Trazadone tablets, which were your personal medication.

Decision and reasons on facts

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

The panel therefore finds charges 1, 2 and 3 proved in their entirety, by way of your admissions.

Decision and reasons on application to adjourn the hearing

Once the panel had announced all of the charges proved in their entirety by way of your admissions, Ms Khanna made an application to adjourn the hearing until the following morning, to give you an opportunity to prepare documents for the next stage of the hearing relating to misconduct and impairment.

Mr Segovia indicated that he did not oppose the application.

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

The panel considered that if the application to adjourn was granted, it would still have sufficient time scheduled for the hearing to conclude. The panel determined that it would be fair to give you until the following morning to prepare your case for the misconduct and impairment stage. The panel therefore decided to grant the application until 09:15 the next morning.

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

Ms Khanna made a request that parts of your case be held in private on the basis that proper exploration of your case involves reference to your personal life and health conditions. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Mr Segovia indicated that he supported the application to the extent that any reference to your health conditions should be heard in private.

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 personal life and health conditions, the panel determined to hold those parts of the hearing in private.

Submissions on misconduct and Impairment

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. 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 without restriction.

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.

The panel heard evidence from you under affirmation. You indicated that you were content for your reflective statement dated 5 December 2019 and the addendum to your reflective statement dated 29 November 2021, to be adopted as your evidence in chief.

You told the panel that you now know how poor your decisions were. You said you have undertaken training and have been working alongside supportive colleagues who are all aware of these proceedings.

You said that you were ashamed of how you made the profession look and you understand the impact your actions had on the public and your colleagues and how you

put them at risk. You said since completing your non-medical prescribing course you now have a better understanding of the seriousness of what you did and never want to put your colleagues in the same position again.

You spoke about your health condition which you said stemmed from the intense working environment of a walk-in centre. You said that you had experienced the bereavement of someone close to you and you became more unwell. You felt so much shame after these incidents and this worsened your health conditions.

You said you took around five months away from nursing to reflect on the incidents and worked in retail but you realised that nursing is all you have ever wanted to do. You decided you wanted to take steps to return to your nursing career and restore the trust that the public and your colleagues can have in you.

You said you understand the consequences that your actions could have had on Person A and Person D. You said you have learnt from your mistakes and assured the panel that this would never happen again. You explained that providing medication to friends or colleagues produces a conflict of interest and you would not do this now under any circumstances. You said that your perspective has changed now you are a mother. You have reflected on your conduct as someone who has responsibility for a child. You told the panel that since these incidents you have changed your practice. You told the panel that since the incidents you have worked at two separate practices and there have been no concerns raised about your honesty and integrity.

You said that if possible, you hope to return to work [PRIVATE] and to start your Advanced Nurse Practitioner course.

Decision and reasons on application to adjourn the hearing

Once you had concluded your evidence under affirmation, Ms Khanna made an application to adjourn the hearing until the following morning to give you a further

opportunity to attempt to get information from your employer regarding your current practice.

Mr Segovia indicated that the NMC was keen for the case to conclude within the scheduled four days, however, he did not oppose the application.

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

The panel considered that if the application to adjourn was granted, it would still have sufficient time scheduled for the hearing to conclude. The panel was aware that you and your representative had made previous unsuccessful attempts to get information from your employer. The panel determined that it would be fair to give you until the following morning to make further attempts to get any information from your employer, before concluding submissions from the parties in relation to misconduct and impairment. The panel therefore decided to grant the adjournment until the following morning.

When the hearing resumed the following day, the legal assessor raised the issue of a panel member providing information gained from the NMC register regarding your non-medical prescribing course (NMP), during the time that the panel were asking you questions. He indicated that this ought not to have occurred. His advice to the panel was that, in due course, when making its decision on misconduct and impairment it should do so exclusively on the evidence adduced by the NMC. What the panel member saw was not part of the NMC's evidence and the legal assessor advised the panel to put the information out its mind completely. The panel accepted the advice of the legal assessor.

Both Ms Khanna and Mr Segovia were content with the legal advice.

The panel determined that it would disregard any of the details on the NMC register.

Submissions on misconduct and impairment

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 Segovia invited the panel to find that the facts found proved amount to misconduct. He referred the panel to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives' (2015) (the Code).

Mr Segovia identified the specific, relevant standards where he submitted that your actions amounted to misconduct.

Mr Segovia submitted that in relation to Ashton Walk-in Centre, you acted in a dishonest way by misleading colleagues and by the creation of the record intended to mislead Ashton Walk-in Centre. He submitted that you would have known precisely what you were doing and you have accepted by your admissions that you acted dishonestly. He submitted that asking a colleague to prescribe antibiotics for someone who had never been a patient of the walk-in centre was particularly serious, and involved a colleague who had the necessary qualifications to prescribe and trusted what you had told her. He submitted that in relation to Partington Family Practice, you put your colleague at risk of harm by giving her your own prescription medication.

Mr Segovia submitted that looking at the incidents separately and together, the issues raised fell well below the standards expected of a nurse and are serious enough to amount to misconduct.

Mr Segovia moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the case of *Council for*

Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant [2011] EWHC 927 (Admin).

Mr Segovia submitted that it is a matter for the panel to judge your level of insight. He submitted that there have been no issues with your practice since the time of these matters in 2018. He submitted there is no information from your current employer about how you have been doing which might have assisted the panel with regard to future risk. He invited the panel to consider all the information before it with regard to risk of repetition.

Mr Segovia referred the panel to case of *Grant* and submitted that the position of NMC is that all four limbs are engaged in this case. He submitted the dishonesty in this case is serious in that there was more than one element to the dishonesty. He submitted that the NMC's case is that even if the panel find that the risk of repetition is low, your fitness to practice is impaired on public interest grounds.

Ms Khanna submitted that from the outset you accepted the wrongdoing in June 2018 and your position has remained consistent and you made full admissions once clarity of the charges was established. She also submitted that you accepted that your actions amounted to misconduct.

Ms Khanna submitted that you had demonstrated remorse for your actions. She submitted that you have not been subject to any restriction on your practice, but you chose not to work for a number of months after the incidents because you questioned whether it was appropriate to continue as a nurse. She submitted that this was evidence of immediate insight. She submitted that you used the period to reflect on what you had done, and you returned to nursing with caution in a part time capacity, then eventually returned full time after building up confidence in your abilities. Ms Khanna submitted that when you addressed the panel on your health, you did not provide evidence to make excuses but to provide context.

Ms Khanna submitted that you had no previous referrals, there is no evidence of any further fitness to practice concerns since the incidents and there is no evidence of deep-seated attitudinal problems.

Ms Khanna submitted that your misconduct is remediable although she accepted that dishonesty is difficult to remediate. She submitted that you have demonstrated insight into your actions. She submitted that you acted in a misguided sense of loyalty to a friend and a colleague and you admitted it was poor judgement and you also accept your dishonesty.

Ms Khanna submitted that your behaviour was isolated and occurred over a short period of time and was never repeated. She invited the panel to accept your evidence. You have undertaken further training and developed your knowledge and know now why what you did was wrong.

Ms Khanna told the panel that they had not been successful in getting further information from your current employer but the panel should not speculate as to why that was. She asked the panel to consider how much difference the information from your employer would make in light of your level of insight, remorse and remediation.

Ms Khanna submitted that in the particular circumstances of your case, there is sufficient information for the panel to find your conduct has been remediated and to find you not currently impaired. She submitted that in completing the NMP course you have reduced future risk and understand the ethics regarding prescribing. Finally, she submitted that the panel should not find current impairment on public interest grounds.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council (No 2) [2000] 1 A.C. 311* and *PSA v The GMC and Doctor Uppal 2015 EWHC 1304 (Admin.)*

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:

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

18.1 prescribe, advise on, or provide medicines or treatment, including repeat prescriptions (only if you are suitably qualified) if you have enough knowledge of that person’s health and are satisfied that the medicines or treatment serve that person’s health needs

18.3 make sure that the care or treatment you advise on, prescribe, supply, dispense or administer for each person is compatible with any other care or treatment they are receiving...

19.1 take measures to reduce as far as possible, the likelihood of mistakes, near misses, harm and the effect of harm if it takes place

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

20.6 stay objective and have clear professional boundaries at all times...”

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 your dishonesty at charges 1 and 2 was serious in that you put your colleague and Person A at risk by asking your colleague to prescribe Person A medication without a consultation taking place. The panel considered that your actions fell seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

The panel considered that your actions at charge 3 put Person D at risk of harm by giving her your own medication to take; this was serious and fell short of the conduct and standards expected of a nurse and amounted to misconduct.

The panel found that taken individually and together, your actions at charges 1, 2 and 3 fell seriously short of the conduct and standards expected of a nurse and amounted to 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. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

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

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

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

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

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

The panel found that limbs a, b, c and d are engaged in the *Grant* test. The panel found that Person A and Person D were put at risk of harm as a result of your misconduct. The panel found that your misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty serious.

Regarding insight, the panel considered that you had developed sufficient insight into your behaviour. The panel took into account that you made full admissions to the charges and you were able to demonstrate in your written reflection and your oral evidence that you had an understanding of how your behaviour put Person A and Person D at a risk of harm.

The panel also considered that you demonstrated an understanding of why what you did was wrong and how this impacted negatively on the reputation of the nursing profession. The panel also noted that you showed remorse for your behaviour and you said you apologised to Person D. The panel was satisfied that you had sufficiently demonstrated how you would handle the situation differently in the future.

The panel was satisfied that the misconduct in this case is capable of being addressed. Therefore, the panel carefully considered the evidence before it in determining whether or not you have taken steps to strengthen your practice. The panel took into account that since the incident you have undertaken further training particularly in prescribing and that you have developed your understanding of why your behaviour was wrong. The panel took into account your reflective piece written by you dated December 2019 which addressed the incidents involving your dishonesty and provided evidence of your insight into your misconduct.

The panel was of the view that based on your insight and the steps you have taken to strengthen your practice, the risk of repetition is low. The panel considered that your dishonesty was limited to one episode with three components. The panel considered from your evidence that you had learnt from these incidents and your misconduct would be unlikely to be repeated. The panel therefore decided that a finding of impairment is not necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that a finding of impairment on public interest grounds is required. The panel considered that the charges found proved were serious in that they related to your nursing role, put a member of the public and a colleague at risk, and there were three

components to the dishonesty. It considered that members of the public would be concerned if a finding of impairment was not made for a nurse who had acted in this way. The panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case. It considered that a finding of current impairment is required to mark the seriousness of your misconduct, to declare and uphold proper standards and to maintain confidence in the nursing profession. The panel therefore found your fitness to practise impaired on the grounds of public interest.

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

Given the lateness of the hour it was apparent that the panel would not be able to deal with the issue of sanction today and the hearing was adjourned.

Before the hearing was adjourned Ms Khanna set out the chronology of events regarding two NMC referrals that had been brought to her attention. Both referrals were closed without further investigation and will not be relevant at the resumed hearing when the panel will decide on which sanction, if any, to impose in this case.

Submissions on interim order

Mr Segovia submitted that in considering an adjournment application, the issue of an interim order should be addressed. He submitted that the panel is dealing with findings of dishonesty and has already found impairment on public interest grounds. He submitted that it was necessary to protect the public interest as of today's findings. He invited the panel to impose an interim suspension order, on public interest grounds alone, for a period of 6 months to cover the period between now and when the hearing resumes.

Ms Khanna opposed the application on your behalf. She submitted that you made early admissions in 2019 and you have not been subject to any interim order prior to this hearing. She submitted that nothing has changed in the meantime. You are currently

employed and [PRIVATE] will not be working. She referred the panel to the case of *Shiekh v General Dental Council* [2007] EWHC 2972 (Admin) in particular paragraph 16 of that judgment which emphasises that the bar is set high for the making of an interim order on public interest grounds. She submitted that there should be no interim order now as necessity is not made out.

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

Decision and reasons on interim order

The panel considered its finding on impairment. The panel was satisfied that an interim order is not necessary for the protection of the public, in line with its finding of impairment on public interest grounds alone. The panel reminded itself that you admitted all the charges in 2019 and have been practising without restriction since. The panel considered that the high bar for interim order on public interest grounds alone had not been met. The panel therefore decided not to impose an interim order and adjourned the hearing to a date to be fixed by NMC.

Sanction

The hearing adjourned on 2 December 2021 due to insufficient time. It resumed on 31 March 2022. All parties remained the same with the exception of the hearings coordinator.

The panel has considered this case very carefully and has decided to make a suspension order for a period of three months. The effect of this order is that the NMC register will show that your registration has been suspended.

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 Segovia informed the panel that in the Notice of Hearing, dated 21 October 2021, the NMC advised you that it would seek the imposition of a striking off order if it found your fitness to practise currently impaired.

Mr Segovia submitted that this is a clear case of dishonesty, subsequently, there is a possibility of being struck off the register. He submitted that you acted dishonestly by creating a false consultation in order to mislead your colleague, thus misleading your employer. He referred the panel to the case of *Parkinson v Nursing and Midwifery Council* [2010] EWHC 1898 (Admin). Mr Segovia stated that although this case has a background around prescribing, this is a case about dishonesty.

Mr Segovia submitted that you deliberately breached the duty of candour in relation to your nursing practice. He submitted that the public would be concerned by your clear abuse of trust and dishonest behaviour so much so that the public confidence in the profession would be undermined.

Mr Segovia submitted that, although the panel found you present no future risk, it is also clear that your abuse of trust created risk of harm. Furthermore, he submitted that your dishonest behaviour occurred within a clinical setting at your workplace.

Mr Segovia invited the panel to consider a striking off order as one of the possible sanctions in this case.

Ms Khanna also referred the panel to the case of *Parkinson v Nursing and Midwifery Council* [2010] EWHC 1898 (Admin), namely paragraph 18 which states:

'I can only allow Mr Parkinson's appeal on one of two grounds: firstly, that there was a serious procedural irregularity which vitiated the fairness of the proceedings - there was none, as he accepts; secondly, that the decision of the Panel was

wrong. On the information which it had, I cannot say that the decision of the Panel was wrong. It was stern certainly, but it was properly stern because, as the Panel noted, one of its tasks is to maintain public confidence in the professions. A nurse found to have acted dishonestly is always going to be at severe risk of having his or her name erased from the register. A nurse who has acted dishonestly, who does not appear before the Panel either personally or by solicitors or counsel to demonstrate remorse, a realisation that the conduct criticised was dishonest, and an undertaking that there will be no repetition, effectively forfeits the small chance of persuading the Panel to adopt a lenient or merciful outcome and to suspend for a period rather than to direct erasure.'

Ms Khanna submitted that the case of Parkinson did not appear directly relevant to this case as it was about a nurse, who for financial gain was claiming sick pay for their job, but was working at another job. However, she submitted that the Parkinson case was relevant because Justice Mitting identified the keys for considering a lesser sanction than striking off which are attendance at a hearing, demonstration of remorse and a low risk of repetition.

Ms Khanna also referred the panel to the NMC guidance “considering sanctions for serious cases”, specifically “cases involving dishonesty” dated 17 December 2021. It states:

‘Generally, the forms of dishonesty which are most likely to call into question whether a nurse, midwife or nursing associate should be allowed to remain on the register will involve:

- *deliberately breaching the professional duty of candour by covering up when things have gone wrong, especially if it could cause harm to patients*
- *misuse of power*
- *vulnerable victims*
- *personal financial gain from a breach of trust*

- *direct risk to patients*
- *premeditated, systematic or longstanding deception*

Dishonest conduct will generally be less serious in cases of:

- *one-off incidents*
- *opportunistic or spontaneous conduct*
- *no direct personal gain*
- *no risk to patients*
- *incidents in private life of nurse, midwife or nursing associate'*

Ms Khanna submitted that, from the outset of these proceedings, you made timely admissions and gave full accounts addressing each of the charges. She submitted that your accounts were persuasive enough to reassure the panel that there is no risk of this conduct being repeated or any likelihood of you putting the public at risk again.

Furthermore, Ms Khanna submitted that you have gained full insight into the concerns and expressed genuine remorse and a clear desire to continue working within the nursing profession.

Ms Khanna submitted that this is not a case of entrenched dishonesty incapable of remediation. She submitted that, whilst the concerns are serious, they are not so serious in that a strike off can be considered as a justified sanction to impose. Ms Khanna submitted that the incident was a one-off opportunistic action arising from misguided loyalty to a friend. She submitted that you have acknowledged your wrongdoing, provided reasons for why you erred and addressed the impact your actions have had/could have on patients and members of the public.

Ms Khanna informed the panel that you have been undertaking core mandatory training and keeping up to date with the Greater Manchester Antimicrobial Guidelines whilst on maternity leave. She submitted that these factors contribute to making your dishonesty

less serious as most, if not all, of the 'less serious' factors outlined in the guidance apply to you.

Ms Khanna submitted that your misconduct has been marked by the finding of impairment and a striking off order would be disproportionate. She submitted that in the SG, the majority of the 'less serious' points are engaged, and a caution order can be used even where there has been dishonesty. Ms Khanna submitted that, if the panel does decide to impose an order, it should consider a caution order or, if a suspension order was imposed it should be for the minimum time period possible. [PRIVATE]

The panel accepted the advice of the legal assessor.

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 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:

- Your misconduct had potential to cause harm to a colleague and a member of the public;
- Your dishonesty was an abuse of your position of trust; and
- Your dishonesty took place within a clinical environment.

The panel took into account the following mitigating features:

- You made early admissions in respect of all charges;

- You have no relevant fitness to practice history;
- You have co-operated and fully engaged with the NMC process; and
- You have demonstrated insight early on, genuine remorse and have made ongoing efforts to strengthen your practice.

[PRIVATE]

The panel took into account that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. It balanced the aggravating and mitigating factors it had identified, and considered the financial impact a sanction could have.

The panel further considered the NMC's guidance on cases involving dishonesty. The panel determined that the following factors were present that demonstrated the seriousness of your dishonesty:

- Your dishonesty involved a misuse of power; and
- There was a risk to a member of the public.

However, the panel also noted that this was a one-off incident and your dishonesty was not premeditated, systematic or longstanding. Furthermore, you have demonstrated remorse, insight, and explained to the panel how you would ensure that this would not happen again.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case which breached one of the fundamental tenets of the profession. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

The panel then considered the imposition of a caution order. 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, particularly due to the dishonesty which occurred in a clinical setting. The panel seriously considered whether a caution order would be appropriate but concluded it would not be sufficient to mark the seriousness of the misconduct nor sufficient to declare and uphold proper standards so as to maintain public confidence in the profession and the NMC as its regulator. Therefore, 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 is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel determined a conditions of practice order would not be appropriate in the circumstances of this case. There is no finding of ongoing risk to the public and no clinical areas requiring remediation. The panel concluded that the placing of conditions on your registration would not address the wider public interest concerns.

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

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

The panel considered that your dishonesty was one episode with three component parts and there is no evidence of deep-seated personality concerns or attitudinal issues. The panel noted that there is nothing to suggest that you have repeated the misconduct since

the incidents. The panel considered that you have developed sufficient insight and strengthened your practice and the risk of repetition of the misconduct is low. The panel was of the view that a suspension order would be sufficient to mark the seriousness of this case.

The panel also determined that a suspension order would be necessary and proportionate 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 went on to consider whether a striking-off order would be appropriate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction. The panel considered the length of such an order, and since you have demonstrated remorse, insight and strengthened your practice, it considered that three months was proportionate to mark your misconduct.

The panel noted the financial hardship such an order may cause you. However, this is outweighed by the need to uphold the public interest in this case.

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 considered it was appropriate to exercise its power in this regard and not to order a review as the purpose of the order is to mark the seriousness of the misconduct and uphold proper standards and there was no finding of impairment in relation to public protection. Accordingly, the current substantive order will expire, without review, three months after the suspension comes into force.

This will be confirmed to you in writing.

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 your own interests until the suspension order 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 Segovia. He invited the panel to impose an interim suspension order for a period of 18 months to cover any appeal period. He stated that this was necessary due to the panel's findings.

Ms Khanna opposed the application. She submitted that, due to the panel having made a solid finding of no risk, the only remaining ground is whether there is a public interest reason for the imposition of an interim order. She submitted that the bar is set very high in relation to imposing an order solely on the ground of public interest.

Ms Khanna submitted that you anticipated a period of suspension, that you accept the outcome and that you have no intention of appealing the finding. Therefore, she submitted that it is not necessary for the panel to impose an interim order.

Decision and reasons on interim order

The panel accepted the advice of the legal assessor.

The panel find that it is not necessary to impose an interim order on public protection grounds because there is no risk to the public. The panel is mindful of the bar being set high in relation to imposing interim orders on the basis of it being in the public interest alone. It came to the conclusion that this was not a case where an interim order is otherwise in the public interest.

Accordingly, the panel determined that it is not necessary to impose an interim order.

That concludes this determination.