

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

**Substantive Hearing  
22 – 26 August 2022**

Virtual Hearing

**Name of registrant:** **Ghazala Adman**

**NMC PIN:** 06D01680

**Relevant Location:** Registered Nurse – Sub Part 1  
Adult Nursing – (April 2006)

**Relevant Location:** Lancashire

**Type of case:** Misconduct

**Panel members:** Debbie Hill (Chair, Lay member)  
Lorraine Shaw (Registrant member)  
David Anderson (Lay member)

**Legal Assessor:** Gillian Hawken

**Hearings Coordinator:** Monsur Ali (22 August 2022)  
Jumu Ahmed (23-26 August 2022)

**Nursing and Midwifery Council:** Represented by Sapandeep Singh Maini-  
Thompson, Case Presenter

**Mrs Adman:** Not present and not represented

**Facts proved by admission:** Charges 1a, 1b, 1d, 2a

**Facts proved:** Charges 1c, 3a, 3b, 4

**Facts not proved:** Charges 2b, 3c

**Fitness to practise:** Impaired

**Sanction:** **Striking-off order**

**Interim order:** **Interim suspension order (18 months)**

## **Decision and reasons on service of Notice of Hearing**

The panel was informed at the start of this hearing that Mrs Adman was not in attendance and that the Notice of Hearing letter had been sent to Mrs Adman's registered email address on 13 July 2022.

Mr Maini-Thompson, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, details of the substantive hearing which included the time, dates and GoToMeeting link of the virtual hearing and, amongst other things, information about Mrs Adman's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all of the information available, the panel was satisfied that Mrs Adman has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

## **Decision and reasons on proceeding in the absence of Mrs Adman**

The panel next considered whether it should proceed in the absence of Mrs Adman. It had regard to Rule 21 and heard the submissions of Mr Maini-Thompson who invited the panel to continue in the absence of Mrs Adman.

Mr Maini-Thompson referred the panel to Mrs Adman's email of 5 July 2022 in which she stated that she would not be attending the hearing due to [PRIVATE] and asked the NMC to email to her the panel's final decision.

Mr Maini-Thompson submitted that due Mrs Adman's [PRIVATE] she decided not to participate in the proceedings and did not indicate that on some future date she would be willing to participate. He submitted that there is nothing to suggest that she is willing to attend on another date and therefore it is fair and reasonable to proceed with the hearing in Mrs Adman's absence as all evidence indicates that she has voluntarily absented herself.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised '*with the utmost care and caution*' as referred to in the case of *R v Jones (Anthony William)* (No.2) [2002] UKHL 5.

The panel decided to proceed in the absence of Mrs Adman. In reaching this decision, the panel has considered the submissions made by Mr Maini-Thompson, and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and 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 Mrs Adman;
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- Mrs Adman has confirmed that she will not be attending the hearing;
- [PRIVATE];
- One witness has attended today to give live evidence;
- Not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- The charges relate to events that occurred in 2019 and 2020;

- Further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mrs Adman in proceeding in her absence. Although the evidence upon which the NMC relies has been sent to her at her registered address, she will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on her own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Mrs Adman's decisions to absent herself from the hearing, waive her rights to attend, and/or be represented, and to not provide evidence or make submissions on her own behalf.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mrs Adman. The panel will draw no adverse inference from Mrs Adman's absence in its findings of fact.

### **Details of charge**

That you, a registered nurse, working at Banksfield Nursing Home ("the Home"):

1. In relation to the substantive conditions of practice order imposed by a panel of the NMC Fitness to Practise Committee on 8 November 2019:
  - a. failed to comply with clause 1 in that you administered medication on one or more occasions between 19 December 2019 and 7 July 2020 before being signed off as competent;
  - b. failed to comply with clause 3 in that you practised as a nurse without supervision by a band 6 registered nurse or above on one or more dates between 19 December 2019 and 7 July 2020;

- c. failed to comply with clause 5 in that you did not meet with your line manager, Manager 1, at least once every month;
  - d. failed to comply with clause 11 in that you did not inform the Home about the order placed on your registration;
- 2. Provided a medications competency assessment dated 30 June 2020 to Manager 1 which stated it had been completed by Person 1 and:
  - a. Person 1 was not suitably qualified to complete the assessment; and/or
  - b. Person 1 did not complete the assessment;
- 3. Your actions in charge 2 were dishonest, in that you:
  - a. intended to deliberately mislead the Home about your compliance with the substantive conditions of practice order; and/or
  - b. knew Person 1 was not qualified to complete the assessment and intended to mislead the Home that you had been assessed as competent; and/or
  - c. knew Person 1 had not completed the assessment and intended to mislead the Home that you had been assessed as competent;
- 4. Your conduct in charge 2 above demonstrates a lack of integrity in that you asked Person 1 to complete a medications competency assessment when you knew they were not qualified to do so;

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

## Background

The charges arose whilst Mrs Adman was employed as a registered nurse at Banksfield Nursing Home (the Home).

On 8 November 2019, Mrs Adman became subject to a 12-month conditions of practice order imposed by a panel of the Fitness to Practise Committee. The order included the following conditions:

- '1) You must not administer medication until you have been signed off as competent to do so by your line manager, mentor or supervisor (or their nominated deputy).*
  
- 2) Once signed off as competent to administer medication you must keep a monthly personal development log detailing one medication round you have undertaken. It must be signed by a supervisor and contain feedback from them on how you carried out the round.*
  
- 3) You must ensure that you are supervised by a registered nurse any time you are working. Your supervision must consist of: working at all times on the same shift as, but not always directly observed by, a registered nurse of band 6 or above.*
  
- 4) You must work with your employer to create a personal development plan (PDP). Your PDP must address the concerns about patient care and medication management and administration.*
  
- 5) You must meet with your line manager, mentor or supervisor (or their nominated deputy) at least once every month to discuss the standard of your performance and your progress towards achieving the aims set out in your personal development plan.*

6) You must send a report from your line manager, mentor or supervisor (or their nominated deputy) setting out the standard of your performance and your progress towards achieving the aims set out in your personal development plan to the NMC prior to any NMC review hearing or meeting.

7) You must tell the NMC within 7 days 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.

8) You must tell the NMC about any professional investigation started against you and/or any professional disciplinary proceedings taken against you within 7 days of you receiving notice of them.

9) You must within 7 days of accepting any post or employment requiring registration with the NMC, or any course of study connected with nursing or midwifery, provide the NMC with the name/contact details of the individual or organisation offering the post, employment or course of study

10) You must within 7 days of entering into any arrangements required by these conditions of practice provide the NMC with the name and contact details of the individual/organisation with whom you have entered into the arrangement.

11) 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 (10) above, to them:

- a. Any organisation or person employing, contracting with, or using you to undertake nursing work;
- b. Any prospective employer (at the time of application) where you are applying for any nursing appointment; and
- c. Any educational establishment at which you are undertaking a course of

*study connected with nursing or midwifery, or any such establishment to which you apply to take such a course (at the time of application).'*

It is alleged that Mrs Adman breached condition 11 of the order in that she failed to inform the Home of the order placed on her registration. It is also alleged that she breached conditions 1, 3 and 5 of the order by working without supervision at the Home, by administering medication to patients when she had not been signed off as competent to do so, and by failing to hold supervisory meetings with her line manager to discuss a personal development plan.

It is further alleged that Mrs Adman acted dishonestly in obtaining and/or providing the Home with a medicines management competency assessment completed by another person on 30 June 2020. It is said that that person was not a nurse and that this assessment was provided in order to deliberately mislead Mrs Adman's employer about her compliance with the substantive order.

The Home checked Mrs Adman's NMC PIN and found she was subject to the conditions of practice order imposed on 8 November 2019.

The NMC raises two regulatory concerns:

- a. That Mrs Adman practised as a nurse in breach of a substantive conditions of practice order first imposed by the NMC on 8 November 2019; and
- b. Dishonesty, in that Mrs Adman obtained and/or provided a false medications management competency assessment in order to deliberately mislead her employer about her compliance with the substantive conditions of practice order.

On 24 November 2021, Mrs Adman responded to the regulatory concerns where she made admissions to charges 1a, 1b, 1d and 2a.



Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor who referred to the following case law: *Re H & Others (Minors) (Sexual Abuse: Standard of Proof)* [1996] AC 563; *Gorgeous Beauty Ltd v Liu and Others* [2014] EWHC 3093 Ch; *English v Emery Reinbold & Strick* [2002] 1 WLR 2409 and *Phipps v GMC* [2006] EWCA Civ 397; *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UK SC 67; *Soni v General Medical Council* [2015] EWHC 364; *Wingate and Evans v SRA*; *SRA v Malins* [2018] EWCA Civ 366; *Williams v SRA* [2017] EWHC 1478 Admin. It considered the witness and documentary evidence provided by both the NMC and Mrs Adman.

### **Decision and reasons on facts**

At the outset of the hearing, Mr Maini-Thompson informed the panel that Mrs Adman made admissions to charges 1a, 1b, 1d and 2a by ticking the relevant boxes on the response to regulatory concerns form.

The panel noted that Mrs Adman's admissions to these sub-particular, by way of ticking the relevant boxes on the form, were supported by her written comments in which she apologised for her misunderstanding. Having received advice from the legal assessor, the panel was satisfied that Mrs Adman's admissions on the form were unequivocal admissions, that there was no ambiguity around those admissions, and the panel could safely conclude that on the balance of probabilities, Mrs Adman had admitted those parts of the Allegation.

The panel noted that although Mrs Adman had admitted sub-particular 1c on the response form, she had then commented that "*I was assessed every month by my line manager.*" The panel could not be satisfied that this was an unequivocal admission by Mrs Adman and, as such, did not find this sub-particular proved at this stage under Rule 24(5).

The panel therefore finds charges 1a, 1b, 1d and 2a proved in their entirety, by way of Mrs Adman's admissions.

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Maini-Thompson on behalf of the NMC.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

The panel heard live evidence from the following witness called on behalf of the NMC:

- Witness 1: Interim Manager for the Home;

### **Decision and reasons on application to admit Witness 2's report as hearsay evidence**

Mr Maini-Thompson made an application under Rule 31 to allow Witness 2's expert report to be admitted into evidence. He submitted that Witness 2's evidence is a highly relevant document as it is the key evidence on the issue of dishonesty. He further submitted that admitting hearsay evidence would have some level of unfairness to Mrs Adman; however, Witness 2's evidence is clear and transparent, therefore it is reliable. Therefore, he submitted that the transparency and simplicity of the written statement would not cause Mrs Adman further unfairness.

Mr Maini-Thompson had no information as to why Witness 2 was not in attendance today.

Mr Maini-Thompson told the panel that the report was sent to Mrs Adman on 16 August 2022 by email and by post but she did not respond.

Mr Maini-Thompson submitted that as a result, the panel should admit Witness 2's report as hearsay evidence.

Mr Maini-Thompson provided the panel with written submissions. He referred the panel to the case of *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565, *Bonhoeffer v GMC* [2011] EWHC 1585 (Admin) and *NMC v Ogbonna* [2010] EWCA Civ 1216.

5. *'Witness 2's forensic report was prepared pursuant to an examination of documentary evidence containing handwriting samples of the Registrant. Witness 2 was acting on instructions from the NMC.'*
6. *Witness 2 was instructed to determine whether or not Ghazala Adman completed a Staff Competency Assessment for the Management of Medicines proforma in her name and/or signed the proforma as 'member of staff making the assessment'. This goes to the honesty of her claims about having completed a medication competency assessment. The relevance of Witness 2 report is accordingly plainly established.*
7. *It is submitted that Witness 2, in providing a full list of the materials relied upon in his forensic examination, leaves limited room for opacity in the interpretation of his conclusions. Accordingly, the contents of his report may reasonably be interpreted by the panel without any real risk of unfairness to the Registrant.*
8. *A copy of the report was emailed to the Registrant on 16 August 2022 with no response from the Registrant.'*

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

The panel gave the application in regard to Witness 2's report serious consideration. The panel noted that Witness 2's report had been prepared in anticipation of being used in these proceedings and contained the paragraph, *'I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer'* and signed by him on 11 August 2022.

The panel considered whether Mrs Adman would be disadvantaged by the change in the NMC's position of moving from reliance upon the live testimony of Witness 2 to allowing hearsay testimony into evidence.

The panel next considered whether it would be relevant and fair to admit Witness 2's report as hearsay evidence. The panel was of the view that the report was relevant as it is evidence on dishonesty, a fundamental issue in this case. The panel considered the expert report was a clear and straightforward report. The panel also noted that Mrs Adman had been provided with a copy of Witness 2's report on 16 August 2022 and, as the panel had already determined that Mrs Adman had chosen voluntarily to absent herself from these proceedings, she would not be in a position to cross-examine this witness in any case.

The panel considered that the unfairness in this regard worked both ways in that the NMC was deprived, as was the panel, from reliance upon the live evidence of Witness 2 and the opportunity of questioning and probing that testimony. There was also public interest in the issues being explored fully which supported the admission of this evidence into the proceedings.

In these circumstances, the panel came to the view that it would be fair and relevant to admit Witness 2's report as hearsay evidence, but would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

## **Decision and reasons on facts continued**

The panel accepted the advice of the legal assessor.

The panel considered each of the disputed charges and made the following findings.

### **Charge 1c**

1. In relation to the substantive conditions of practice order imposed by a panel of the NMC Fitness to Practise Committee on 8 November 2019:
  - c. Failed to comply with clause 5 in that you did not meet with your line manager, Manager 1, at least once every month

### **This charge is found proved.**

In reaching this decision, the panel took into account Mrs Adman's response in the regulatory response form where she 'ticked' the box admitting to charge 1c. However, the panel noted that Mrs Adman handwrote "*I was assessed every month by my line manager.*" As a result of the conflicting evidence, the panel did not find this charge found proved by way of admission as it sees it as an equivocal admission.

The panel was of the view that the NMC requirements are clear in relation to the substantive conditions of practice order. The panel did not have any evidence or information to demonstrate that Mrs Adman had met her line manager, at least once every month.

The panel also took into account Witness 1's live and documentary evidence. The panel found Witness 1 to be a credible witness. Witness 1 was adamant that she had not been aware of Mrs Adman's substantive conditions of practice order and that, in her role as Mrs

Adman's line manager, she had not met with her monthly, or indeed at all in this capacity. The panel was of the view that Witness 1 was clear in her evidence when she said that nobody else in the Home would be fulfilling the role of Mrs Adman's line manager. However, the panel noted that Witness 1 accepted that it was possible for Mrs Adman to have thought that her agency colleague, Person 1, would act as her line manager. However, it was clear that no one else in the Home could be Mrs Adman's line manager.

The panel also noted from Witness 1's evidence that she had made enquiries with Mrs Adman's previous full time manager as to whether she was aware of any restrictions of Mrs Adman's practice, but that she was not and so Mrs Adman was not under any supervision at all before Witness 1 had joined in the Home.

The panel accepted Witness 1's evidence that Mrs Adman's line manager did not have any supervision meetings with Mrs Adman at all.

The panel was of the view that Mrs Adman would have the knowledge that it would have to be a registered nurse who she would need to have meetings with. The panel also took into account that Mrs Adman did 'tick' the box as an admission to the charge.

The panel was therefore of the view, that on the balance of probabilities, it is more likely than not that Mrs Adman failed to comply with clause 5 of the substantive conditions of practice order as she did not meet with her line manager at least once every month. The panel, therefore, found charge 1c proved.

### **Charge 2b)**

2. Provided a medications competency assessment dated 30 June 2020 to Manager 1 which stated it had been completed by Person 1 and:
  - b. Person 1 did not complete the assessment;

**This charge is found NOT proved.**

In reaching this decision, the panel took into account the documentary evidence provided by Person 1 and Witness 2. The panel noted Person 1's evidence that he had told Witness 1 that he had completed the assessment and had his name and signature at the bottom of the medicines management competency assessment. The panel also noted the email from Person 1 to Person 2 from the NMC to which he stated that he completed the competency assessment.

The panel noted from the evidence that there was a concern around whether the medicines management competency assessment was done via zoom, however it determined that this was not relevant.

The panel took into account Witness 2's report which stated:

*'There was no evidence to associate Ghazala Adman with having completed the non-signature handwriting on the questioned 'Staff Competency Assessment for the Management of Medicines' proforma dated 30/06/2020 and the available documents provided very strong support for the proposition that she was not responsible. While I could not entirely exclude the possibility that Ghazala Adman was responsible, I considered this remote.*

*The evidence as to whether or not Ghazala Adman made the signature shown on the copy questioned document was inconclusive, that is, she could be neither positively associated with having been responsible nor excluded with any degree of certainty.'*

The panel did not have any other evidence on this, therefore on the balance of probabilities, the panel did not find this charge proved.

### Charge 3a)

3. Your actions in charge 2 were dishonest, in that you:
  - a. intended to deliberately mislead the Home about your compliance with the substantive conditions of practice order

### **This charge is found proved.**

In reaching this decision, the panel took into account Witness 1's documentary and live evidence.

In considering whether Mrs Adman's actions were dishonest, the panel had regard to the test as set out in the case of *Ivey v Genting Casinos* [2017] UKSC 67:

- *What was the defendant's actual state of knowledge or belief as to the facts; and*
- *Was his conduct dishonest by the standards of ordinary decent people?*

The panel took into account the NMC Guidance document 'Making decisions on dishonesty charges.'

In considering whether Mrs Adman's conduct would be regarded as dishonest by the standards of '*ordinary decent people*', the panel bore in mind her state of mind at the time of this incident. The panel considered that the starting point in its deliberations was that Mrs Adman's would have been aware of condition 1 of her conditions of practice order - that she had agreed with the NMC via Consensual Panel Determination (CPD) – which required that she did not administer medication until she was signed off as competent to do so by her line manager, mentor or supervisor (or nominated deputy). The panel was in no doubt that Mrs Adman, with her 14 year nursing career, knew that Person 1 who was not a nurse (or indeed any sort of healthcare practitioner) and was not her line manager,



was not suitably qualified to conduct the medicines management competency assessment.

The panel took into account Witness 1's evidence that when Mrs Adman was questioned on the restriction on her registration, she would evade or avoid the questions or discussions on this issue. The panel noted from Witness 1's live evidence:

*"The registrant said, "let's meet up and put things right",*

*I said "I have to report this"*

*She said "please don't ... we can put this right"*

The panel also noted that when Mrs Adman was aware that the Home knew of the substantive order, she asked Witness 1 that it be dealt with quietly.

The panel was of the view that Mrs Adman knew that she did not comply with substantive conditions of practice order and had intended to mislead the Home by claiming a competency assessment has been carried out by her line manager. The panel determined that this would be regarded as dishonest by the standards of ordinary decent people. The panel therefore found Mrs Adman's actions at charge 3a to be dishonest. This charge is therefore found proved.

### **Charge 3b)**

3. Your actions in charge 2 were dishonest, in that you:
  - b. knew Person 1 was not qualified to complete the assessment and intended to mislead the Home that you had been assessed as competent

**This charge is found proved.**

In reaching this decision, the panel took into account of Witness 1 and Person 1's evidence.

The panel noted that although it did not establish that Person 1 had completed the assessment form, he would not have been qualified to complete the assessment form as he was not suitably qualified and that he was in an administrative role within the agency. The panel noted that Person 1 had told this to the NMC. The panel was of the view that Mrs Adman was aware that Person 1 was not qualified to complete the competency assessment and had intended to mislead the Home. The panel determined that this would be regarded as dishonest by the standards of ordinary decent people. The panel therefore found Mrs Adman's actions at charge 3b to be dishonest. This charge is therefore found proved.

### **Charge 3c)**

3. Your actions in charge 2 were dishonest, in that you:

- c. knew Person 1 had not completed the assessment and intended to mislead the Home that you had been assessed as competent;

**This charge is found NOT proved.**

As the panel did not find charge 2b proved, this charge cannot be found proved.

### **Charge 4)**

- 4. Your conduct in charge 2 above demonstrates a lack of integrity in that you asked Person 1 to complete a medications competency assessment when you knew they were not qualified to do so;

**This charge is found proved.**

The panel noted that Person 1 had told Witness 1 and the NMC that he was not a qualified nurse.

The panel was of the view that Mrs Adman as a registered nurse is expected to be open and honest, act with integrity and to uphold the reputation of the nursing profession. The panel noted the established principle in case law that integrity connotes adherence to the ethical standards of one's own profession and that professional integrity is linked to the way in which a particular profession serves the public. The panel was in no doubt that a derogation from her duties to care for and safeguard patients, by providing a medications management competency assessment completed by someone who is not qualified to undertake it (Person 1) amounted to a lack of integrity by Mrs Adman. Furthermore, as the panel determined that as Mrs Adman was dishonest in her conduct and did not maintain the standards of a professional nurse, it also determined that she had demonstrated a lack of integrity in asking Person 1 to complete a medicines management competency assessment when she knew they were not qualified to do so.

The panel was therefore of the view, that on the balance of probabilities, that Mrs Adman demonstrated a lack of integrity in that she had asked Person 1 to complete a medications competency assessment when she knew he was not qualified to do so. The panel, therefore, found charge 4 proved.

### **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 Mrs Adman's 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 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, Mrs Adman's 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 Maini-Thompson invited the panel to take the view that the facts found proved 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 Maini-Thompson submitted Mrs Adman's fitness to practice is impaired by reason of her misconduct. He submitted that if Mrs Adman's conduct was repeated, it would place patients and service users at risk of harm. He further submitted that as a registered nurse, Mrs Adman is currently a risk to the health, safety or wellbeing of the public. Therefore, by reason of Mrs Adman's misconduct, her continued practice without a restriction on her registration would diminish public confidence and professional standards.

Mr Maini-Thompson identified the specific, relevant standards where Mrs Adman's actions amounted to misconduct.

In relation to paragraph 13 of the Code ('recognise and work within the limits of your competence'), Mr Maini-Thompson submitted that, with the panel having found charges 1a, 1b, 1c, 1d and 2a proven, Mrs Adman failed to recognise and work within the limits of her competence. Specifically, she failed to ask for help from a suitably qualified person in the form of supervision and meeting with her line manager as required by her conditions of practice order. He also submitted that Mrs Adman failed to complete the necessary training before administering medications.

In relation to paragraph 18 (Advise on, prescribe, supply, dispense or administer medicines within the limits of your training and competence, the law, our guidance and other relevant policies, guidance and regulations), Mr Maini-Thompson submitted that Mrs Adman failed to comply with the appropriate guidelines when administering medication to patients as she was not assessed as competent and therefore, not qualified.

Mr Maini-Thompson submitted that Mrs Adman failed to comply with paragraph 20 of the Code which is to uphold the reputation of her profession at all times. He submitted that in Mrs Adman deliberately failing to disclose her substantive conditions of practice order to the Home and in deliberately failing to undertake a medications management competency assessment with a qualified person, she failed to act with integrity and honesty at all times.

Mr Maini-Thompson submitted that each of Mrs Adman's breaches of the Code are serious in nature and constitutes misconduct on each occasion because of their individual gravity and because she was dishonest over a prolonged period.

### **Submissions on impairment**

Mr Maini-Thompson 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. He referred the panel to the test set out in *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2)*

*and Grant* [2011] EWHC 927 (Admin). He submitted that Mrs Adman's misconduct is remediable in principle insofar as reflection and transparency may compensate for prior misconduct. However, he submitted that there has been no evidence of remediation in respect of any of the regulatory concerns in this case. He submitted that Mrs Adman did not provide the panel with a personal reflection and evidence of how she would have acted differently if she had not been caught by her line manager. He further submitted that, notwithstanding Mrs Adman's admissions to some of the charges, she has not accepted personal responsibility for the breaches of the Code. Therefore, in light of all the information and the absence of reflection, there is a real risk of repetition.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *General Medical Council v Meadow* [2007] QB 462 (Admin), *Roylance v General Medical Council (No 2)* [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant and Sayer v General Osteopathic Council* [2021] EWHC 370 (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 Mrs Adman's actions did fall significantly short of the standards expected of a registered nurse, and that Mrs Adman's actions amounted to several breaches of the Code. Specifically:

### ***'Prioritise People***

*You put the interests of people using or needing nursing or midwifery services first. You make their care and safety your main concern and make sure that their dignity is preserved and their needs are recognised, assessed and responded to. You*

*make sure that those receiving care are treated with respect, that their rights are upheld and that any discriminatory attitudes and behaviours towards those receiving care are challenged.'*

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

*To achieve this, you must, as appropriate:*

*13.1 - accurately identify, observe and assess signs of normal or worsening physical and mental health in the person receiving care*

*13.2 - make a timely referral to another practitioner when any action, care or treatment is required*

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

*13.4 - take account of your own personal safety as well as the safety of people in your care*  
*13.5 complete the necessary training before carrying out a new role*

**18 Advise on, prescribe, supply, dispense or administer medicines within the limits of your training and competence, the law, our guidance and other relevant policies, guidance and regulations**

*To achieve this, you must:*

*18.2 - keep to appropriate guidelines when giving advice on using controlled drugs and recording the prescribing, supply, dispensing or administration of controlled drugs*

**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*

*20.2 - act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment'*

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. It had regard to the case of *Roylance v General Medical Council* 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.'*

The panel determined that Mrs Adman's actions in each of the individual charges did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct. It was of the view that Mrs Adman had disregarded the decision and the substantive order of the previous Fitness to Practise Committee as she failed to comply or attempt to comply with the substantive order. The panel was of the view that Mrs Adman was an experienced registered nurse who would have the knowledge that she needed to be transparent about the restriction on her registration with the Home in order to protect patients and service users. The panel took into account Witness 1's evidence where she told the panel that she was shocked that she had left patients in the care of a nurse who was not assessed as competent to administer medication, which inadvertently placed patients at a potential risk of significant harm. The panel determined that Mrs Adman's conduct failed to prioritise people and the safety of patients, which is a requirement of her as a registered nurse.

The panel was of the view that Mrs Adman's disregard to comply with the substantive conditions of practice order extended over a significant period of time. It also believed that her intention to mislead the Home could be indicative to a deep seated attitudinal issue. Further, it determined that Mrs Adman's dishonesty and lack of integrity breached



fundamental tenets of the Code. The panel was also of the view that Mrs Adman's conduct was very serious and would be considered as '*deplorable*' by fellow practitioners.

On the basis of the above, the panel was in no doubt that Mrs Adman's conduct and dishonest behaviour fell significantly short of the standards expected of a registered nurse and is sufficiently serious to amount to misconduct.

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

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

Nurses occupy a position of privilege and trust in society and are expected at all times to be 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 concluded that all four limbs of this test were engaged.

Whilst there is no evidence to suggest that Mrs Adman's actions caused actual harm to patients, her dishonesty and failure to notify the Home of the substantive order and to comply with the conditions put patients at risk of significant harm. Furthermore, having breached multiple provisions of the Code, the panel determined that Mrs Adman's misconduct had breached fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. The panel was satisfied that confidence in the nursing profession would be undermined if its regulator did not find Mrs Adman's fitness to practise to be impaired and the charges relating to dishonesty as extremely serious.

The panel did not have any documentation or other evidence before it addressing Mrs Adman's insight on the impact her actions could have had on her patients, colleagues, the

nursing profession and the wider public as a whole. Therefore, the panel was of the view that Mrs Adman had not demonstrated any insight into the misconduct. The panel could not be satisfied, in the absence of any evidence, that Mrs Adman understands and appreciates the seriousness of her failure to act appropriately and her dishonesty.

The panel noted Mrs Adman written representations to the NMC, including in her email of 14 February 2022 in which she apologised for what she described as mistakes, acknowledged her need to improve and said that she was ready to do that. In further correspondence, she referred to what she said was a '*misunderstanding*' and a lack of communication on her part which she said was because of the Covid-19 pandemic.

The panel did not accept this as it was of the view that Mrs Adman's actions to mislead the Home and to not comply with the substantive conditions of practice order was more than a mistake, but rather an attitudinal concern to disregard the NMC and the decision of the Fitness to Practise Committee. It was of the view that in Mrs Adman stating that this was a '*misunderstanding*' or a '*mistake*', it demonstrates that Mrs Adman lacks insight or any understanding of her conduct.

In considering whether Mrs Adman had remediated her nursing practice, the panel noted that it did not have any relevant information before it. It bore in mind that dishonesty is often more difficult to remediate than clinical concerns.

Therefore, in having regard to the above, the panel considered there to be no evidence to demonstrate that Mrs Adman had remediated her misconduct. The panel was of the view that Mrs Adman has not demonstrated that she has a level of insight into the concerns identified. The panel also did not have any evidence to allay its concerns that Mrs Adman may currently pose a risk to patient safety. In the absence of any evidence to the contrary, it considered there to be a risk of repetition of Mrs Adman's lack of candour and dishonesty and a risk of unwarranted harm to patients in her care, should adequate safeguards not be imposed on her nursing practice. Therefore, the panel decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health safety and well-being of the public and patients, and to uphold/protect the wider public interest, which 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 considered there to be a public interest in the circumstances of this case. The panel found that the charges found proved are serious and include dishonesty and a lack of integrity. It was of the view that a fully informed member of the public would be concerned by its findings on facts and misconduct. The panel concluded that public confidence in the nursing profession would be undermined if a finding of impairment was not made in this case. Therefore, the panel determined that a finding of impairment on public interest grounds was also required.

Having regard to all of the above, the panel was satisfied that Mrs Adman's fitness to practise as a registered nurse is currently impaired on the grounds of public protection and public interest.

## **Sanction**

Having found Mrs Adman'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 decision on sanction is a matter for the panel independently exercising its own judgement.

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike Mrs Adman off the register. The effect of this order is that the NMC register will show that Mrs Adman has been struck-off the register.

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) and ‘*Considering sanctions for serious cases*’ (SAN-2) guidance published by the NMC. The panel heard and accepted the advice of the legal assessor who make reference to the cases of *Lusinga v NMC* [2017] EWHC 1458 (Admin) and *Atkinson v GMC* [2009] EWHC 3636 (Admin).

### **Submissions on sanction**

Mr Maini-Thompson informed the panel that in the Notice of Hearing, dated 13 July 2022, the NMC had advised Mrs Adman that it would seek the imposition of a striking-off order if it found Mrs Adman fitness to practise currently impaired.

Mr Maini-Thompson submitted that whilst Mrs Adman has admitted to some of the charges and has accepted some superficial level of responsibility by stating that it was a ‘*mistake*’, this does not amount to remorse.

Mr Maini-Thompson submitted that the aggravating features include dishonesty over an extended period of time; misconduct which was in relation to Mrs Adman’s non-compliance with an existing substantive conditions of practice order which went towards fundamentally undermining regulatory standards; and no evidence of Mrs Adman demonstrating remorse or insight.

Mr Maini-Thompson submitted that the mitigating features include Mrs Adman making admissions to some of the charges and her acceptance that she made a ‘*mistake*’, albeit not to a great extent.

Mr Maini-Thompson submitted that the concerns in this case raised fundamental concerns surrounding Mrs Adman’s professionalism and that public confidence would not be maintained if she were not removed from the register. Mr Maini-Thompson submitted that

a striking-off order in this case is the only sanction to protect patients, members of the public, and maintain professional standards.

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

The panel took into account the following aggravating features:

- Previous regulatory findings against Mrs Adman;
- The current referral related to Mrs Adman's breach of an existing substantive conditions of practice order;
- Lack of insight and remorse;
- A pattern of misconduct over an extended period of time;
- Conduct which put patients at risk of harm;
- Seeking to minimise her misconduct;
- Attempted to mislead the Home;
- Dishonesty in a workplace setting which is directly linked to patient care.

In terms of mitigating factors, the panel noted that Mrs Adman had made some admissions to some of the charges and had apologised. The panel identified no other mitigating features in this case.

The panel concluded that the aggravating features of this case far outweigh the mitigating features.

The panel had regard to the NMC guidance on '*Considering sanctions for serious cases*' (SAN-2) and considered that Mrs Adman's dishonesty was towards the higher end of the spectrum. In reaching this decision, the panel considered that Mrs Adman's dishonesty was a deliberate breach of a substantive conditions of practice order as she did not notify the Home of the restriction on her registration, over an extended period of time, and had attempted to mislead the Home of this. Whilst there is no evidence of patient harm, there was a direct risk which could have potentially caused significant harm to patients. In

addition, Mrs Adman had not provided a medicines management competency assessment as required in the conditions of practice order and had attempted to mislead the Home on this.

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 Mr Adman'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 Mr Adman's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel determined that placing conditions of practice on Mr Adman's registration would not be sufficient or an appropriate response as she had breached the previous substantive conditions of practice order and had attempted to mislead the Home about it. The panel could not rely on Mrs Adman to comply with any further substantive conditions of practice order.

The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges and the dishonesty in this case. The misconduct identified in this case was not something that can be addressed through retraining, particularly where Mrs Adman had not demonstrated any insight or remorse, and had demonstrated a complete disregard for the NMC as her regulator and her duty to protect the public. The panel, therefore, concluded that the placing of conditions on Mr

Adman'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 panel had regard to the SG which outlines the circumstances where a suspension order may be appropriate. The panel considered that Mrs Adman had demonstrated deep seated attitudinal issues as she had completely disregarded the previous Fitness to Practise Committee's substantive conditions of practice order. This case concerns a pattern of misconduct perpetrated over an extended period of time. Mrs Adman has not demonstrated any insight, remorse, or steps she has taken to strengthen her practice regarding her failings.

The panel was of the view that Mrs Adman's conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. It noted that the serious breach of the fundamental tenets of the profession evidenced by Mrs Adman's actions is fundamentally incompatible with her remaining on the register and as such, determined that a suspension order would not be a sufficient, appropriate or proportionate sanction in that it would not protect patients or maintain confidence in the nursing profession.

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*



The panel determined that Mrs Adman's actions and her dishonesty and lack of integrity were a significant departure from the standards expected of a registered nurse, and are fundamentally incompatible with her remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Mrs Adman's misconduct was serious, placed patients at risk of harm, and to allow her to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body. The panel recognised the adverse effect that a striking off order may have on Mrs Adman but was mindful of case law and of the NMC's own guidance that the reputation of the nursing profession is more important than the fortunes of an individual nurse.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of Mrs Adman's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct herself, the panel has concluded that nothing short of this would be sufficient in this case.

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

This will be confirmed to Mrs Adman in writing.

### **Interim order**

As the striking-off 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 Mrs Adman's own interest until the striking-off 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 Maini-Thompson. He submitted that an interim suspension order for a period of 18 months is necessary to protect the public and is otherwise in the public interest.

### **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 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 due to allow sufficient time for any appeal to be heard. The panel is satisfied that this order and for this period is proportionate in the circumstances of this case.

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

That concludes this determination.