

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

**Substantive Hearing
Monday 26 September – Thursday 29 September 2022
Monday 12 December – Tuesday 13 December 2022**

Virtual Hearing

Name of registrant:	Folakemi Omotosho
NMC PIN:	95I3428E
Part(s) of the register:	Registered Nurse – Sub Part 1 Mental Health – September 1998
Relevant Location:	Stevenage
Type of case:	Misconduct
Panel members:	John Penhale (Chair, Lay member) Jim Blair (Registrant member) Isobel Leaviss (Lay member)
Legal Assessor:	Monica Daley
Hearings Coordinator:	Nandita Khan Nitol (26-29 September 2022) Renee Melton-Klein (12-13 December 2022)
Nursing and Midwifery Council:	Represented by Zahra Evans, Case Presenter
Mrs Omotosho:	Not present and unrepresented
Facts proved by admission:	Charge 3 (a)
Facts proved:	Charge 1(a) (b), 2(a) (b), 3 (b), 4, 5 and 7
Facts not proved:	Charge 6
Fitness to practise:	Impaired
Sanction:	Striking Off Order
Interim order:	Interim Suspension Order (18 months)

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

At the outset of the hearing, Ms Evans, on behalf of the Nursing and Midwifery Council (NMC), made a request that parts of this case be held in private on the basis that it might be necessary to refer to Mrs Omotosho's personal matters. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

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 Mrs Omotosho's personal matters, the panel determined to hold such parts of the hearing in private as and when these issues are raised. It was satisfied that this was justified and that it outweighed any prejudice to the general principle of public hearing.

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Omotosho was not in attendance and that the Notice of Hearing letter had been sent to Mrs Omotosho's registered email address via secure email on 25 August 2022.

Ms Evans submitted that it had complied with the requirements of Rules 11 and 34.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the possible outcomes, the time, dates and joining details of the virtual hearing and, amongst other things, information about Mrs Omotosho's right to attend, to request an adjournment, 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 Omotosho 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 Omotosho

The panel next considered whether it should proceed in the absence of Mrs Omotosho. It had regard to Rule 21 and heard the submissions of Ms Evans who invited the panel to continue in the absence of Mrs Omotosho.

Ms Evans referred the panel to the email from Mrs Omotosho, dated 05 September 2022, which stated:

‘...I have already mentioned in my previous email to NMC that, due to [PRIVATE] I will not be able to participate in the hearing and same for the conference. [PRIVATE].’

Ms Evans submitted that Mrs Omotosho had voluntarily absented herself and has not applied for an adjournment. She submitted that adjourning the hearing today would be unlikely to secure her attendance and invited the panel to proceed in the absence of Mrs Omotosho.

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 has decided to proceed in the absence of Mrs Omotosho. In reaching this decision, the panel has considered all the available information including the submissions of Ms Evans, responses from Mrs Omotosho 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 Omotosho.
- Mrs Omotosho has informed the NMC that she has received the Notice of Hearing and has shown a settled intention not to attend the hearing.
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- Two witnesses are due to attend today to give oral evidence in respect of this matter.
- Not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mrs Omotosho in proceeding in her absence. Although the evidence upon which the NMC relies has been sent to her and 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. The panel has Mrs Omotosho's responses. Furthermore, any disadvantage is a consequence of Mrs Omotosho's decisions to absent herself from the hearing and waive her rights to be represented. Furthermore, Mrs Omotosho could have provided further evidence and submissions in writing which she has chosen not to do.

In these circumstances, the panel has decided that it is fair, appropriate and proportionate to proceed in the absence of Mrs Omotosho. The panel will draw no adverse inference from Mrs Omotosho's absence.

Details of charge

That you,

1. Practised as a nurse whilst subject to an Interim Suspension Order ('ISO') on:
 - a. 29 September 2020 **[Charge found proved]**
 - b. 30 September 2020 **[Charge found proved]**

2. Between 13 July 2020 and 30 September 2020 did not advise Sensible staffing:
 - a. that you were under investigation by the NMC **[Charge found proved]**
 - b. that you were suspended from the NMC register **[Charge found proved]**

3. Between July 2020 and 30 September 2020 did not advise Priory Hospital Heathfield:
 - a. that you were under investigation by the NMC **[Proved by admission]**
 - b. that you were suspended from the NMC register **[Charge found proved]**

4. On 9 September 2020 you sent an email to the NMC saying that you were not currently working when you knew this was not the case. **[Charge found proved]**

5. Your actions set out in charges 2a and/or 3a above were dishonest in that you sought to hide that you were being investigated by the NMC. **[Charge found proved]**

6. Your actions set out in charges 2b and/or 3b above were dishonest in that you sought to hide that you were suspended from the NMC register. **[Charge is found not proved]**

7. Your actions set out in charge 4 above were dishonest in that you sought to mislead the NMC by saying you were not working when you knew you were. **[Charge found proved]**

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

Background

Mrs Omotosho's name was first entered the NMC register in 2001. She commenced employment with the Sensible Staffing ("the Agency") in July 2020 and at the same time she commenced her placement at the Priory Heathfield Hospital (the "Hospital").

A concern had previously been raised regarding Mrs Omotosho's fitness to practice by a previous employer. As a result, on 28 September 2020 a hearing was held where a decision was made to place an interim suspension order (ISO) on Mrs Omotosho's practice.

The NMC received a referral about Mrs Omotosho's fitness to practise on 1 October 2020, from Witness 1 (Head of Quality at the Agency and a registered nurse). At the time of the concerns raised in the referral, Mrs Omotosho was working for the Agency as a Locum Ward Manager at the Hospital.

Late on 29 September 2020, the agency completed their monthly registration checks on the NMC website to ensure that all of their nurses were still active on the register. When they checked Mrs Omotosho's name, it showed that her registration was subject to an ISO.

Early on 30 September 2020, the agency say they contacted Mrs Omotosho and asked if she was aware that her registration was subject to an ISO. It is reported that she responded by saying that she knew of the issue but not that she was suspended. The Agency asked Mrs Omotosho whether she was currently at work, and she replied that she was working. The Agency informed Mrs Omotosho that she must leave the Hospital immediately.

Mrs Omotosho had been informed of the date of the Interim Order Hearing via emails on 18 September 2020 and 24 September 2020. Mrs Omotosho responded to these emails on 25 September 2020, saying she would not be able to attend the hearing but that she would be submitting a written response.

At the hearing on 28 September 2020, Mrs Omotosho registration became subject to an ISO which became effective that same day, which meant that she was not allowed to practise in any capacity that requires her to be a registered nurse. Mrs Omotosho was informed of the outcome of the hearing via email on 29 September 2020. She attended the Hospital and carried out her role, which required an active nursing registration, on 29 September 2020 and 30 September 2020.

Decision and reasons on application to admit hearsay evidence

The panel heard an application made by Ms Evans under Rule 31 to allow the written statements of Witness 3 and Witness 4 into evidence.

Ms Evans provided written submissions which included the following:

'A practice committee considering the allegation may admit oral, documentary or other evidence whether or not such evidence would be admissible in civil proceedings in the appropriate court in the part of the United Kingdom in which the hearing takes place.

The key words are relevance and fairness because the test of admissibility of evidence. Is the evidence relevant to the issue of the committee is considering and also would it be fair to admit that evidence.

The evidence of Witness 4 is relevant to the charges before you. Witness 4 provides evidence that is relevant to Charge 1, 2, 3, 5 & 6.

The evidence of Witness 3 is also relevant to the charges before you and provides evidence that is relevant to charge 4 & 7.

In my submission it is fair for you to admit their statement and exhibits.

Witness 3 and Witness 4 have both signed their statement and their witness evidence is simply to produce internal documents from the NMC. Both witnesses are employed by the NMC. Witness 4 is an Investigator and Witness 3 is a Senior Screening officer.

If you do admit their evidence, you can then decide what weight to give their evidence.'

Ms Evans in her written submission also stated that:

'Both witnesses 3 and 4 are both exhibiting evidence gathered whilst in their professional roles. They are not contentious witnesses. It is not a pragmatic use of the resource of the NMC for either witness to attend however no disrespect is intended to the panel by the non attendance at the hearing of both NMC staff members. They are not contentious witness Neither witness provide evidence of being a witness to primary facts. They both exhibit evidence that was gathered in their professional roles. Neither witness can provide any further evidence apart from what is contained in their statements and exhibits.'[sic]

Ms Evans informed the panel that Mrs Omotosho was notified on 10 June 2022 that the NMC is intending on having the written statements of Witness 3 and Witness 4. She further added that Mrs Omotosho did not agree with the statements of Witness 3 and 4 but did not give any further information as to why she disagreed.

In light of all the reasons above Ms Evans invited the panel to admit the statements and exhibits of Witness 3 and 4 as hearsay evidence.

The panel accepted the legal assessor's advice on the issues it should take into consideration in respect of this application, which included reference to *Thorneycroft v*

NMC [2014] EWHC 1565 (Admin). 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. *Thorneycroft v Nursing and Midwifery Council* provides the following factors to be taken into account:

- '(i) whether the statements were the sole or decisive evidence in support of the charges;*
- (ii) the nature and extent of the challenge to the contents of the statements;*
- (iii) whether there was any suggestion that the witnesses had reasons to fabricate their allegations;*
- (iv) the seriousness of the charge, taking into account the impact which adverse findings might have on the Appellant's career;*
- (v) whether there was a good reason for the non-attendance of the witnesses;*
- (vi) whether the Respondent had taken reasonable steps to secure their attendance; and*
- (vii) the fact that the Appellant did not have prior notice that the witness statements were to be read.'*

The panel determined that the evidence from both the witnesses could be decisive in regard to the charges which were serious and could potentially have a significant impact on Mrs Omotosho's career. The panel considered the reasons given for non-attendance, and it was not satisfied that they were sufficient in this particular case. The panel noted that there were gaps in the communication between the NMC and Mrs Omotosho which were central to the charges. In Mrs Omotosho's absence and in the light of her responses the panel decided that it was important, if possible, for the panel to have the opportunity to test the witness evidence and/or seek clarification in fairness to Mrs Omotosho and in the public interest.

In these circumstances the panel refused the application in regard to both the witnesses.

The panel further heard from Ms Evans that Witness 4 had personal circumstances which made it difficult for her to attend. The panel accepted that Witness 5 who line

managed Witness 4 would be able to attend to deal with the matters set out in Witness 4's witness statement. The panel heard from Witness 3 and Witness 5. The panel was provided with a witness statement from Witness 5 with exhibits which included the correspondence between Mrs Omotosho and the NMC between early September and 29 September 2020 and an email trail which provided information on how an interim order was uploaded to the NMC register.

Decision and reasons on facts

The panel noted that these charges arose out of an interim suspension order which was granted on 28 September 2020. However, the panel reminded itself that the regulatory concerns to which the interim suspension order related were not matters for this panel and as such the panel was cognisant of the charges before them and the need to focus solely on these charges.

The panel had regard to the completed Case Management Form on 10 June 2022 where Mrs Omotosho admitted to the 3 (a).

The panel therefore finds charge 3 (a) proved by way of Mrs Omotosho's admissions.

Mrs Omotosho has denied all the other charges.

In reaching its decisions on the disputed charges, the panel took into account all the oral and documentary evidence in this case including the written responses from Mrs Omotosho and the submissions made by Ms Evans 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 oral evidence from the following witnesses called on behalf of the NMC:

- Witness 1: Head of Quality at the Sensible Staffing (“the agency”)
- Witness 2: Hospital Director at the Nelson House Hospital
- Witness 3: Senior Screening Case Officer at the NMC
- Witness 5: Investigation Manager at the NMC

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the witness and documentary evidence provided by the NMC.

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

Charge 1

1. Practised as a nurse whilst subject to an Interim Suspension Order (‘ISO’) on:
 - a) 29 September 2020
 - b) 30 September 2020

This charge is found proved.

Witness 1 and 2 provided evidence that Mrs Omotosho was employed by the agency at the material time and that she worked at the Hospital on 29 September 2020 and 30 September 2020 as a ward manager, a role that required her to be a registered nurse.

The panel heard from Witness 1 that on finding out about the ISO on 30 September 2020 she made enquiries which established that Mrs Omotosho had been at work on 29 September 2020 and was currently on duty.

The panel had documentary evidence of the ISO made on the 28 September 2020 to suspend Mrs Omotosho's registration for 18 months with immediate effect (i.e. from that day).

Therefore, in light of the above evidence the panel therefore finds the charge 1 (a) and (b) proved.

Charge 2a)

2. Between 13 July 2020 and 30 September 2020 did not advise Sensible staffing:

a) that you were under investigation by the NMC

This charge is found proved.

The panel had regard to the witness statement and oral evidence of Witness 1 who was clear that at no time had Mrs Omotosho advised the Agency of the NMC investigation regarding her practice.

The panel saw evidence of a letter dated 18 September 2020 sent by Mrs Omotosho to her registered email address. The letter summarised potential regulatory concerns, explained that these were being investigated and that in the meantime an interim order hearing was being scheduled on 28 September 2020. The panel saw documentary

evidence that Mrs Omotosho has engaged with the NMC following receiving the letter and therefore the panel was in no doubt that she was aware that she was being investigated.

The panel had also sight of the declaration signed by Mrs Omotosho on 30 August 2019 which stated that:

'If at any time during my application or employment with Sensible Staffing I am investigated or suspended by another employer or my professional regulatory body I will inform Sensible Staffing immediately.'

Witness 1 told the panel that she asked Mrs Omotosho about any ongoing investigation on 30 September 2020 and in response Mrs Omotosho said that *'it had been going on for a little while and she did not want to discuss it'*.

Witness 1 also told the panel about the ease with which Mrs Omotosho could have informed the Agency and the various points of contact available to her.

Therefore, the panel was satisfied, on the balance of probabilities, Mrs Omotosho did not advise the Agency that she was under investigation by the NMC.

In light of the above, the panel therefore finds charge 2 (a) proved.

Charge 2b)

2. Between 13 July 2020 and 30 September 2020 did not advise Sensible staffing:

b) that you were suspended from the NMC register

This charge is found proved.

In reaching this decision, the panel took into account Witness 1's witness statement and oral evidence under affirmation.

Witness 1 explained that it was only when conducting a routine monthly compliance check that it came to the Agency's attention that Mrs Omotosho had been suspended.

Witness 1 also told the panel that when Mrs Omotosho was challenged by the Agency regarding her suspension. Mr Omotosho claimed that she was aware of the NMC investigation but not that she was suspended.

The panel noted an email to the NMC dated 18 November 2020 in which Mrs Omotosho stated that '*sensible staffing informed me of the suspension on my registration*'.

Accordingly, the panel determined that, on the balance of probabilities, Mrs Omotosho did not inform the Agency about her suspension from the NMC register.

The panel therefore finds the charge 2b) proved.

Charge 3

3. Between July 2020 and 30 September 2020 did not advise Priory Hospital Heathfield:

a) that you were under investigation by the NMC **[PROVED BY ADMISSION]**

b) that you were suspended from the NMC register

Charge 3b) is found proved.

The panel heard evidence from Witness 2 that the Hospital only became aware of Mrs Omotosho's suspension when they were alerted to it by the agency.

The panel noted that Witness 2 in her witness statement which was confirmed in her oral evidence stated that:

'I would have expected Folakemi to inform the hospital as soon as she was aware that an NMC referral had been made.'

'I am not sure if it was the same day or next day but I received a call from the agency. They told me that Folakemi was subject to an interim suspension order from the NMC and should not have been working.'

Accordingly, the panel determined that, on the balance of probabilities, Mrs Omotosho did not advise Priory Hospital Heathfield that she was suspended from the NMC register.

The panel therefore finds the charge 3b) proved.

Charge 4

4. On 9 September 2020 you sent an email to the NMC saying that you were not currently working when you knew this was not the case.

This charge is found proved.

The panel had sight of the email in relation to the regulatory concerns that Mrs Omotosho was investigated from Witness 3 on 9 September asking Mrs Omotosho about her employment status, which stated that:

'- Are you currently working at the moment? This includes any agency/bank?

a. if so, please provide the name of the organisation you have worked for.

b. Please provide me details of your line manager, including their name, position, contact, telephone and email address.

-Have you or are you in the process of applying for any nursing roles? If so, provide details.

- Would you be willing to provide details of a former employer, in the event we require an employee reference?

- Can you confirm the current contact information we hold for you on the register is correct, as at this time we intend to email initial letters explaining the screening process as we are not able to post.

- If not, please provide any updates, or alternatively, log onto you NMC Online account and make the suitable changes...'

'..I must kindly draw your attention The Code: Professional standards of practice and behaviour for Nurses and Midwives. In particular paragraph 23 which requires that: You must cooperate with all investigations and audits.'

In reply to the email on 9 September 2020 Mrs Omotosho stated that:

- '1) Thank you for contacting me with this [sic] concerns. I am not working at present.*
- 2). I am in the process of looking for a job*
- 3) Yes I would provide reference*
- 4)Yes current contact is correct.'*

The panel also saw evidence of a time sheet regarding her working hours at the Hospital which shows that on 7 September 2020, 8 September 2020, 9 September 2020, 11 September 2020 and 12 September 2020, Mrs Omotosho worked at the Hospital as a ward manager. The time sheet was signed by Mrs Omotosho and the Hospital Director of Clinical Services.

Accordingly, the panel determined that, on the balance of probabilities, Mrs Omotosho sent an email to the NMC on 9 September 2020 saying that she was not currently working when she knew that this was not the case.

The panel therefore finds the charge 4 proved.

Charge 5

- 5.** Your actions set out in charges 2a and/or 3a above were dishonest in that you sought to hide that you were being investigated by the NMC

This charge is found proved.

In reaching this decision, the panel took into account Witness 1 and 2's witness statements and oral evidence under affirmation.

The panel was satisfied that Mrs Omotosho was aware that she was being investigated by the NMC. Mrs Omotosho had received correspondence and was responding to it.

The panel had also sight of the declaration signed by Mrs Omotosho on 30 August 2019 which stated that:

'If at any time during my application or employment with Sensible Staffing I am investigated or suspended by another employer or my professional regulatory body I will inform Sensible Staffing immediately.'

The panel found that Witness 1's NMC witness statement and oral evidence under affirmation were consistent, in which she states that:

'We expect nurses who work with our agency and who have been referred to the NMC to tell us straight away. We need to support the nurses through their referral and work with them. We also need to inform our clients' as they need to be kept updated too. Folakemi was informed and aware of that. This was on the application form that she signed and verbally informed again during the call with myself on 30 September 2021.'

Witness 1 told the panel when she asked Mrs Omotosho on 30 September 2020 about any ongoing investigation. Mrs Omotosho responded by saying that *'it had been going on for a little while and she did not want to discuss it'*. Witness 1 also told the panel about the various points of contact that Mrs Omotosho could have informed the agency. Witness 1 found Mrs Omotosho to be vague and defensive in her responses concerning her referral to the NMC even when the Agency told her they were aware she was suspended.

Witness 2 told the panel that Mrs Omotosho never informed anyone at the Priory Hospital that she was subject to an investigation by the NMC.

The panel is satisfied that Mrs Omotosho was aware of the NMC investigation. It is possible that Mrs Omotosho did not appreciate that she was under a duty to advise her current employer about the investigation because it related to a previous employment and, as she apparently described to Witness 1 *'it was not about anything clinical'*. However, on the balance of probabilities the panel was satisfied that it was more likely than not that she had deliberately chosen not to advise the Agency and the Hospital about the NMC investigation because Mrs Omotosho was seeking to hide that she was being investigated. By choosing not to do so she was acting dishonestly, by the standards of ordinary decent people.

The panel therefore finds the charge 5 proved.

Charge 6

6. Your actions set out in charges 2b and/or 3b above were dishonest in that you sought to hide that you were suspended from the NMC register

This charge is found not proved.

In her email to the NMC dated 18 November 2020, Mrs Omotosho stated that:

'My registration was 'effective'. I believed at the time that no restriction was placed on my registration. Sensible Staffing informed me of the suspension on my registration.'

In her responses to this allegation on the Case management form on 10 June 2020 she stated that:

‘The information given to me by NMC officer was that, I will receive an email before 5pm of the day of our conversation if a decision was made to restrict my practice. I did not receive an email on the day or prior to commencement duty the following day.’

Witness 4 provided the information in regard to the internal system used by the NMC to update the register (The Wiser system). He produced a document that showed that Mrs Omotosho interim suspension order was uploaded on to the system at 13:01 hours on the 28 September 2020. In response to panel’s question, he stated that the public facing register would not display the changes until the next day. The panel carefully considered Mrs Omotosho’s response in which she stated that she had checked the register. The panel noted that checks had been made on the register on 28 September 2020, but it was not possible to know who or at what time these checks were made. The panel therefore found Mrs Omotosho’s explanation plausible.

Furthermore, the panel did receive evidence that Mrs Omotosho was sent an email on 29 September 2020 by the NMC containing an encrypted document which outlined the panel’s decision to impose an interim suspension order. However, no evidence was provided that this document was in fact opened and it was known that Mrs Omotosho had previously had difficulty in accessing documents sent in that way.

The panel could not be satisfied that the NMC had provided sufficient evidence to demonstrate, on the balance of probabilities, that Mrs Omotosho was dishonest in that she sought to hide that she was suspended from the NMC register

The panel therefore found the charge 6 not proved.

Charge 7

7. Your actions set out in charge 4 above were dishonest in that you sought to mislead the NMC by saying you were not working when you knew you were.

This charge is found proved.

In the email dated 9 September 2020 the NMC formally requested information concerning Mrs Omotosho's employment, as part of their investigation. This clearly included agency or bank work.

The panel has found under charge 4 that on 9 September 2020 Mrs Omotosho sent an email in response to the NMC enquiries saying that she was not currently working when she knew this was not the case. Mrs Omotosho was asked a direct question and she provided a clear answer.

The panel is satisfied that Mrs Omotosho knew her response was dishonest, and the panel also found that it was dishonest by the standards of ordinary decent people.

The panel has therefore concluded that Mrs Omotosho's actions set out in charge 4 above were dishonest in that she sought to mislead the NMC by saying that she was not working when she knew she was.

The panel therefore found the charge 7 proved.

Notice of hearing and proceeding in absence on 12 December 2022

On 12 December 2022 the panel resumed the hearing virtually and noted that Mrs Omotosho was not in attendance and that the Notice of Hearing letter had been sent to her registered email address on 3 November 2022.

Ms Evans, on behalf of the NMC, submitted that it had complied with the requirements of Rules 11 and 34.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, dates and link to the hearing and, amongst other things, information about Mrs

Omosho'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 Omosho 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 Omosho

The panel next considered whether it should proceed in the absence of Mrs Omosho. It had regard to Rule 21 and heard the submissions of Ms Evans who invited the panel to continue in the absence of Mrs Omosho. She submitted that Mrs Omosho had voluntarily absented herself. She took the panel through the Proceeding in Absence bundle and submitted that it was appropriate and in the interest of justice to proceed in the absence of the registrant today.

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*.

The panel has decided to proceed in the absence of Mrs Omosho. In reaching this decision, the panel has considered the submissions of Ms Evans 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* and had regard to the overall interests of justice and fairness to all parties. It noted that:

- Mrs Omosho, on 5 September 2022, wrote to the NMC to say that she would not be able to attend the hearing, nor was she able to practise, due to personal reasons and would not be able to do so '*any time soon*'.
- No application for an adjournment has been made by Mrs Omosho;

- Mrs Omotosho has not engaged with the NMC and has not responded to recent correspondence sent to her by the NMC
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mrs Omotosho in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her at her registered address, she will not be able to give evidence or submissions at the misconduct and impairment stage of the hearing, on her own behalf. However, in the panel's judgement, this can be mitigated. Furthermore, the limited disadvantage is the consequence of Mrs Omotosho'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 Omotosho. The panel will draw no adverse inference from Mrs Omotosho's absence.

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 Omotosho'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 Omotosho'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.*'

Ms Evans 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.

She submitted that the following parts of the code have been engaged and have been breached in this case:

'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~~

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

20.8 act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to.

23 Cooperate with all investigations and audits

To achieve this, you must:

23.3 tell any employers you work for if you have had your practice restricted or had any other conditions imposed on you by us ~~or any other relevant body~~

Ms Evans told the panel, that though they were aware of other potential regulatory concerns against Mrs Omotosho, the only information that the panel must consider today are the facts found proved in this case.

[PRIVATE]

Ms Evans identified the specific, relevant standards where Mrs Omotosho's actions amounted to misconduct in the following written submissions:

Misconduct

*4. It is submitted that the comments of Lord Clyde in *Roylance v General Medical Council* [1999] UKPC 16 provide assistance when seeking to define misconduct:*

'[331B-E] Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a [nursing] practitioner in the particular circumstances.'

*5. The panel may further be assisted by the comments of Elias LJ in *R (on the application of Remedy UK Ltd) v General Medical Council* [2010] EWHC 1245 (Admin) who stated that misconduct must be 'sufficiently serious that it can properly be described as misconduct going to fitness to practise'.*

6. The NMC invites the panel to find that the facts amount to misconduct in that the registrant's actions fell short of what would be proper in the circumstances.

7. Being honest is integral to the standards expected of a registered nurse and central to the code, which this nurse has fallen seriously short of.'

Submissions on impairment

Ms Evans 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.

Ms Evans submitted the following written submissions on impairment:

Impairment

13. If the panel are satisfied that the matters found proved do amount to misconduct the next matter the panel must consider is whether the Registrant's fitness to practise is currently impaired by reason of that misconduct.

14. Impairment is conceptually forward looking and therefore the question for the panel is whether Ms Omotosho is impaired as at today's date per Cohen v General Medical Council [2008] EWHC 581 (Admin) also Zgymunt v General Medical Council [2008] EWHC 2643 (Admin)).

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

16. It is submitted that the panel is likely to find the questions outlined by Dame Janet Smith in the 5th Shipman Report (as endorsed in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin)) instructive. Those questions as are relevant in this case are:

1. has [the Registrant] in the past acted and/or is liable in the future to act as so to put a patient or patients at unwarranted risk of harm; and/or

2. has [the Registrant] in the past brought and/or is liable in the future to bring the [nursing] profession into disrepute; and/or

3. has [the Registrant] in the past committed a breach of one of the fundamental tenets of the [nursing] profession and/or is liable to do so in the future.

4. has [the Registrant] in the past acted dishonestly and/or is liable to act dishonestly in the future.

17. It is submitted that the above questions can be answered in the affirmative in respect of past conduct.

18. Current impairment can be found either on the basis that there is a continuing risk or that the public confidence in the nursing profession and the NMC as regulator would be undermined if such a finding were not made.

19. With regard to future risk, it is submitted the panel will likely find assistance in the questions asked by Silber J in Cohen, namely, is the misconduct easily remediable, has it in fact been remedied and is it highly unlikely to be repeated. As to the risk of repetition, it is understood that currently Ms Omotosho is not employed in a nursing capacity.

20. The NMC guidance entitled: "can the concern be addressed?" is also likely to be of assistance:

"Decision makers should always consider the full circumstances of the case in the round when assessing whether or not the in the case can be remedied. This is true even where the incident itself is the sort of conduct which would normally be considered to be particularly serious.

The first question is whether the concerns can be addressed. That is, are there steps that the nurse, midwife or nursing associate can take to address the identified problem in their practice?

It can often be very difficult, if not impossible, to put right the outcome of the clinical failing or behaviour, especially where it has resulted in harm to a patient. However, rather than focusing on whether the outcome can be put right, decision makers should assess the conduct that led to the outcome, and consider whether the conduct itself, and the risks it could pose, can be addressed by taking steps, such as completing training courses or supervised practice.

Decision makers need to be aware of our role in maintaining confidence in the professions by declaring and upholding proper standards of professional conduct. Sometimes, the conduct of a particular nurse, midwife or nursing associate can fall so far short of the standards the public expect of professionals caring for them that public confidence in the nursing and midwifery professions could be undermined. In cases like this, and in cases where the behaviour suggests underlying problems with the nurse, midwife or nursing associate's attitude, it is less likely the nurse, midwife or nursing associate will be able to address their conduct by taking steps, such as completing training courses or supervised practice.

Examples of conduct which may not be possible to address, and where steps such as training courses or supervision at work are unlikely to address the concerns include:

- Dishonesty, particularly if it was serious and sustained over a period of time or directly linked to the nurse, midwife or nursing associate's practice.*

21. As to the risk of repetition, Ms Omotosho is currently not employed in a nursing capacity. We also have no recent references from current employers. There is no evidence of patient harm, however the allegations show a conduct that exposed patients to a serious and unwarranted risk of harm by Ms Omotosho working whilst subject to an interim suspension order. This raises concerns about the registrant's professionalism and trustworthiness.

22. Due to the nature of the allegations there is a risk that there could be repetition of her actions. The seriousness of the misconduct are such that it calls into question her professionalism and honesty in the workplace. This therefore has a negative impact on the reputation of the profession and, accordingly, has brought the profession into disrepute.

23. The provisions of the code constitute fundamental tenets of the profession and Ms Omotosho's actions have clearly breached these in so far as they relate to upholding the reputation of the profession and Ms Omotosho upholding her position as a registered nurse. The dishonest actions make the concerns particularly serious.

24. The question therefore for the panel will be how a nurse did arrive at a position where she departed so comprehensively from the Code and the fundamental tenets of her profession, in respect of her dishonest actions.

25. Ms Omotosho admitted the charge of not advising the Priory Hospital that she was under investigation by the NMC however all other charges were denied. Within her response to the NMC Ms Omotosho put forward that the information given to her by the NMC was that she would receive an email before 5pm if a decision was made to restrict her practice. She stated that she did not receive an email on that day or prior to commencing her duty the following day. We were further informed that on the day of the Interim Order hearing Ms Omotosho checked her registration in the evening and her registration status was effective. We have had no further explanation provided from Ms Omotosho. With an absent in depth explanation as to why Ms Omotosho carried out her actions it may be the panel have no choice but to find that there is or may be such a risk that this behaviour will continue.

26. Insight is an important concept when considering impairment. Ms Omotosho has provided no analysis as to what steps she has taken personally and professionally to ensure that similar behaviour would not be repeated. It therefore

cannot be said that Ms Omotosho has insight or has fully reflected on her actions.

27. Also relevant are the comments of Cox J in Grant at paragraph [101]:

“The Committee should therefore have asked themselves not only whether the Registrant continued to present a risk to members of the public, but whether the need to uphold proper professional standards and public confidence in the regulator and in the profession would be undermined if a finding of impairment of fitness to practice were not made in the circumstances of this case.”

28. For all the reasons detailed above, whatever the panel decide in respect of future risk, it is submitted that, Ms Omotosho actions are so serious that a finding of current impairment is required in order to maintain public confidence in the professions and NMC and to uphold proper professional standards. The public confidence in the profession and the NMC as a regulator would be undermined if that behaviour was allowed to pass effectively unremarked. Working as a nurse when she was suspended from the register places members of the public at risk of harm and her dishonesty raises fundamental concerns about her trustworthiness as a registered professional which can damage the reputation of the profession.

29. Accordingly, this is a matter in which a finding of impairment is required on public protection and 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* and *CHRE v NMC and Grant*.

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

'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...

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

20.8 act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to.

23 Cooperate with all investigations and audits

To achieve this, you must:

23.3 tell any employers you work for if you have had your practice restricted or had any other conditions imposed on you by us or any other relevant body'

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. The panel first carefully considered whether each of the charges found proved were sufficiently serious to amount misconduct.

The panel was of the view that Mrs Omotosho was aware that she was being investigated by the NMC and was required to inform Sensible Staffing (her employer) immediately about any investigation or suspension by the NMC. The panel would also have expected her to have ensured that Priory Hospital (the client) was informed. Mrs Omotosho was aware that an interim hearing was being held on 29 September 2020 and it was her responsibility to establish and comply with the outcome.

At the hearing on 28 September 2020, Mrs Omotosho was suspended with immediate effect. The panel accepts that Mrs Omotosho checked the Register that evening and saw her registration was still effective and that the public facing NMC Register did not

show that she was suspended until the following day, 29 September 2020. However, the panel is of the view that Mrs Omotosho did not take all reasonable steps to ensure that she knew the outcome of the hearing. She did not access the NMC Egress email she was sent the following day (albeit whilst on shift), she did not re-check the Register, nor did she contact the NMC to ascertain the hearing outcome. This resulted in her working whilst suspended on 29 September and 30 September 2020 until her employer ran routine checks late on 29 September 2020 and they discovered that she had been suspended.

The panel was of the view that it was the responsibility of Mrs Omotosho to ensure that her registration was clear and that a registered nurse should never work whilst suspended and that it was a core breach of the Code to not notify her employers about her suspension. It was her responsibility to keep up-to-date and aware of the status of her registration and to not do so in these circumstances is against the fundamental tenets of the profession. The panel considered that the fact that Mrs Omotosho did not advise Sensible Staffing about the NMC investigation and subsequent suspension put patients at a risk of harm and this amounted to misconduct.

The panel finally considered whether the charges relating to dishonesty, which were found proved, were serious and amounted misconduct. The panel was of the view that dishonestly is always serious and not being honest with her regulator about her employment status whilst under investigation, failing to inform Sensible Staffing about the NMC investigation was dishonest and, in these circumstances, amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Mrs Omotosho'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 found that patients were put at risk of harm as a result of Mrs Omotosho's misconduct. A registered nurse should never work whilst suspended, Mrs Omotosho did so, and this breached fundamental tenets of the nursing profession, and brought its reputation into disrepute.

The panel was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

The panel was satisfied that the misconduct in this case is capable of being remediated. Therefore, the panel carefully considered the evidence before it in determining whether Mrs Omotosho has taken steps to strengthen her practice and demonstrate remediation of her misconduct, including her dishonesty. However, the panel noted that there was nothing by way of submissions, testimonials, or character references to demonstrate that Mrs Omotosho had taken these steps.

Regarding insight, the panel considered that whilst Mrs Omotosho made admissions to one of the charges, she has not demonstrated an understanding of why what she did was wrong and how this impacted negatively on the reputation of the nursing profession. The panel had no information from Mrs Omotosho that she would handle the situation differently in the future and could not be satisfied that her misconduct was highly unlikely to be repeated.

The panel is of the view that all four limbs of the test set out by Dame Janet Smith were met in this case, both in the past and in the future. As such, the panel concluded that there is a risk of repetition of the facts found proved in this case. The panel therefore 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; 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 also required as dishonesty in general and dishonesty with one's regulator is serious. The panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Mrs Omotosho's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Mrs Omotosho's fitness to practise is currently impaired.

Sanction

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

Submissions on sanction

Ms Evans informed the panel that the NMC would seek the imposition of a striking off order if it found Mrs Omotosho's fitness to practise currently impaired. The panel was aware that in the Notice of Hearing, the NMC had advised Mrs Omotosho that this was the order the NMC would be seeking in this case.

Ms Evans submitted that this was the only appropriate sanction which would sufficiently protect the public and maintain the public confidence. She said that proportionality must

be considered. She submitted the following aggravating features, which the panel should consider when considering sanction:

- No evidence of insight has been put forward by Ms Omotosho that she has reflected on her actions.
- Abuse of a position of trust.
- Working as a nurse when she was suspended from the register places patients at risk of harm.
- Dishonest actions
- Ms Omotosho's actions fell significantly short of the standards expected of a registered nurse.

She submitted that the only mitigating feature was that:

- The registrant had admitted one charge before these proceedings began.

Ms Evans submitted that the panel must consider sanction in ascending order of seriousness and summarised the SG regarding each of the orders. She submitted that a caution order was not a suitable sanction in this case as the misconduct was not at the lower end of the spectrum. Nor would a conditions of practice order as there were no workable conditions which could address the public protection and public interest concerns in this case nor has she reflected on how her actions affected her colleagues and put patients at risk. In regard to suspension, she submitted the following:

The panel has found that the registrant lacks insight and has shown no evidence of remediation. The panel has also noted that Ms Omotosho has not demonstrated an understanding of why what she did was wrong and how this impacted negatively on the reputation of the nursing profession. The panel had no information from Mrs Omotosho that she would handle the situation differently in the future. Therefore, Ms Omotosho poses a high risk of repeating the events which led these proceeding.

She concluded her submission on sanction by submitting that:

This case raises serious concerns that are more difficult to put right. Mrs Omotosho put her own priorities before the needs of the Priory, Agency and the NMC. These are serious concerns that could result in harm to patients if not put right and could also impact on the public's trust in the profession.

A striking off order would protect the public and maintain trust and confidence in the profession.

The panel accepted the advice of the legal assessor.

Decision and reasons on sanction

Having found Mrs Omotosho's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Repeated misconduct
- Dishonesty, involving her professional responsibilities as a nurse
- Lack of insight into failings
- Conduct which had the potential to put patients at risk of suffering harm

The panel also took into account the following mitigating features:

- The registrant had admitted one charge before these proceedings began.
- Mrs Omotosho made some efforts to check the status of her registration on the NMC register on the evening of 28 September 2020 (the day of her interim order hearing), though this proved insufficient

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 Mrs Omotosho's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where '*the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.*' The panel considered that Mrs Omotosho's misconduct was not at the lower end of the spectrum, particularly given the dishonesty involved, and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mrs Omotosho's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the following SG guidance, but found that none of the following features applied in this case:

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- *Potential and willingness to respond positively to retraining;*
- *The nurse or midwife has insight into any health problems and is prepared to agree to abide by conditions on medical condition, treatment and supervision;*
- *Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- *The conditions will protect patients during the period they are in force;*
and
- *Conditions can be created that can be monitored and assessed.*

The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case.

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

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

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

The panel was of the view that a suspension would not be sufficient, appropriate, or proportionate sanction to protect the public or uphold the public interest. The panel considered that there was a repetition of the misconduct and that this, combined with the nature and seriousness of the misconduct and dishonesty were evidence of attitudinal problems. Whilst the panel considered that the misconduct, and dishonesty, in this case could be remediable, the panel found that, Mrs Omotosho has not shown any signs of remorse, insight or remediation, even into the charge that she had admitted, nor had she indicated any willingness to do so. In all the circumstances, the panel decided that this raised fundamental concerns about her professionalism.

The misconduct, found proved, was a significant departure from the standards expected of a registered nurse. The panel concluded that Mrs Omotosho's misconduct breached fundamental tenets of the profession and in all the circumstances is therefore incompatible with Mrs Omotosho remaining on the register.

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?*

Mrs Omotosho's actions were significant departures 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 Omotosho's actions were serious and to allow her to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

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 Omotosho'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 Omotosho in writing.

Submissions on interim order

The panel took account of the submissions made by Ms Evans. She submitted that an interim order should be put in place until the substantive order takes effect. She asked the panel to impose an interim suspension order for the period of 18 months, to cover the appeal period, should an appeal be made.

The panel understood that this order would lapse once the substantive order comes into effect.

The panel accepted the advice of the legal assessor.

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. The panel decided 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 to allow sufficient time for an appeal, should one be made.

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

That concludes this determination.