

Nursing and Midwifery Council Fitness to Practise Committee

**Substantive Hearing
17 – 21 May 2021
4 – 5 November 2021
13 January 2022**

Virtual Hearing

Name of registrant:	Craig Campbell
NMC PIN:	03B0115S
Part(s) of the register:	Registered Nurse – Sub Part 1 Adult Nursing – September 2006
Area of registered address:	Scotland
Type of case:	Misconduct
Panel members:	Dale Simon (Chair, lay member) Lisa Punter (Registrant member) Carolyn Tetlow (Lay member)
Legal Assessor:	Simon Walsh
Panel Secretary:	Sherica Dosunmu (17 – 21 May 2021) Tyrena Agyemang (4 -5 November 2021) Anya Sharma (13 January 2022)
Nursing and Midwifery Council:	Represented by Zahra Evans, Case Presenter
Mr Campbell:	Present and represented by Ilaria Moretti on 17 – 21 May 2021. Present on 4 November and represented in your absence by Anna O’Neil, of Anderson Strathern LLP on 5 November 2021 Not present and not represented on 13 January 2022
Facts proved by admission:	Charge 1
Facts proved:	Charge 3

Facts not proved:	Charges 2 and 4
Fitness to practise:	Impaired
Sanction:	Strike off
Interim order:	Interim Suspension Order (18 months)

Details of charge

'That you, a Registered Nurse:

- 1) *On 28 November 2018, you had in your possession medication belonging to Resident A, namely one ampoule of Levomepromazine, without any clinical justification; [Proved by admission]*
- 2) *Your actions were dishonest in that you knew you had no clinical justification for possessing this medication but took it for your own use; [Found not proved]*
- 3) *On 28 November 2018, you worked and / or attended your work premises, while under the influence of medication and / or an unknown substance; [Found proved]*
- 4) *On 28 November 2018, injected yourself with unknown medication in the toilet while at work; [Found not proved]*

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

Decision and reasons on application to admit hearsay evidence

Ms Evans told the panel that a Nursing and Midwifery Council (NMC) witness, Mr 1, had recently disengaged from the regulatory process and indicated he was no longer willing to attend to give evidence.

Ms Evans gave the panel a bundle of documents that showed:

- i) Telephone calls with Mr 1 on 7 May 2021 in which he said he did not wish to participate any more, would not take part in the hearing and did not care if the hearing did not go ahead. He explained that a letter had been sent to his address to 'cancel his registration' and asked the case officer never to call him again;
- ii) On 11 May 2021 the NMC made telephone contact with Mr 1 again but he said 'I told you last week I'm not interested any more';
- iii) On 11 May 2021 the NMC telephoned Mr 1's employer who described his disengagement as 'out of character' and said she would speak to Mr 1 and try to persuade him to reengage;
- iv) On 12 May 2021 the NMC sent a letter to Mr 1 encouraging him to give evidence and explaining his duty as a registered nurse under the NMC Code of Conduct to give evidence when asked;
- v) On 13 May 2021 Mr 1's employer telephoned the NMC to say she had not been able to persuade Mr 1 to reengage. She said Mr 1 explained to her that the letter about cancelling NMC registration sent to him was addressed to someone else and had been sent to him in error. She said Mr 1 was also annoyed that the virtual hearing GoToMeeting test had not been carried out on the day arranged as he had waited for the call;
- vi) On 14 May 2021 the NMC sent a letter to Mr 1 apologising for sending him someone else's letter and also apologising for neither carrying out the IT test on the day

arranged nor explaining why at the time. This letter again asked Mr 1 to attend today's hearing and explained that if the hearing were adjourned he would still be asked to attend in the future.

Ms Evans asked the panel to admit as evidence two statements provided by Mr 1 dealing with the events on 28 November 2018.

The first was the two page statement dated 5 February 2021 in the NMC witness bundle. This statement contained the standard 'statement of truth' on the second page but Mr 1 had signed only the first page. The bundle referred to above showed telephone calls to Mr 1 on 4 March, 15 March and 20 March 2021. In each call he had been asked to sign and return the second page of the statement. He had not done so.

The second was a hand-written incident statement on a Silverline Care pro-forma dated 29 November 2018 and signed by Mr 1. This was in the NMC exhibits bundle.

Ms Evans directed the panel to Rule 31(1) of the Nursing and Midwifery Council (Fitness to Practise) Rules, 2004 (as amended) (the Rules) that allows a panel to admit hearsay evidence subject only to the requirements of relevance and fairness. She submitted that Mr 1's two statements were relevant and that it would be fair to admit them because Mr 1 was a registered nurse whose evidence was reliable and because much of what he said was supported by the evidence of other witnesses who would be called and who would be available for cross-examination.

Ms Evans acknowledged that the case of *EI Karout v NMC* [2019] EWHC 28 made it clear that the panel must decide first if evidence was admissible (relevant and fair) before deciding what weight to give it and that unfairness could not be cured by subsequently giving inadmissible evidence little or no weight.

Ms Evans took the panel to the tests for admissibility of hearsay evidence set out by the judge in the case of *Thorneycroft v NMC* [2014] EWHC 1565. Ms Evans submitted that the

witness is a registered nurse and was present with the other witnesses when the incidents were occurring. She submitted that there were three matters about which Mr 1 gave the only evidence. They were: when Mr 1 asked you where the plasters were; when he found fresh blood on the sink and soap dispenser; and when he found a used needle in the toilet. She stated that all the other matters mentioned in Mr 1's evidence occurred when the other witnesses were present, who are available to be questioned by your representative and the panel.

Ms Evans submitted that the NMC have not been able to have a conversation with Mr 1 to ascertain why he has suddenly disengaged. She stated that the only information provided is that Mr 1 has stated he will not attend. Ms Evans stated that Mr 1's employers have spoken to him and said that it was out of character for him not to comply and also they informed the NMC that he has stated that he was upset about a GoToMeeting test not being carried out on a certain date and he also informed his employer that he received a letter about cancelling his registration. Ms Evans explained that she has confirmed with the Registrations Department that Mr 1's registration is still active and that the last correspondence Mr 1 has received from Registrations Department was in September 2020 confirming his registration. Registrations have confirmed that they have not sent a letter to Mr 1 cancelling his registration.

Ms Evans submitted that the evidence of Mr 1 is reliable. She submitted that he is a registered nurse who was present on the day of the incident and was a direct witness to seeing the fresh blood on the sink and soap dispenser. She submitted that Mr 1 also found the broken vial of morphine and a used needle in the toilet. Ms Evans submitted that it is Mr 1 who informed Ms 3 of what he had found within the toilets and Mr 1 was the person you asked where the plasters are and noticed that your speech was slurred. She submitted that Mr 1 is not the only witness to notice your speech was slurred and referred to Ms 3's statement, which states that your speech was slurred. Ms Evans submitted that Ms 2 along with Mr 1 carried out the post incident drugs check and notes in her statement that two vials of Midazolam and two vials of Nozinan (Levomepromazine) were missing. Ms 2 produces a copy of the controlled drugs register. She submitted that Mr 1 states that

he carried out the post incident drugs check and notes that two vials of Midazolam were missing. Ms Evans submitted that the reliability of Mr 1's evidence can be tested within his NMC and local statement by having access to the written NMC and local statements of Ms 2 and Ms 3 and also having the opportunity to question Ms 2 and Ms 3, as both of these witnesses support elements of Mr 1's evidence.

Ms Evans submitted in the alternative that if the panel were not prepared to admit Mr 1's written evidence, the panel should use its powers under Rule 22(5) to require Mr 1's attendance.

Ms Moretti, on your behalf, told the panel that she would dispute Mr 1's evidence but submitted that it would nevertheless be fair to admit it as hearsay evidence. She explained that she would deal with those disputed parts of Mr 1's evidence that had been observed by, or that involved, other witnesses in cross-examination of those witnesses. She would deal with other disputed parts of Mr 1's evidence in closing submissions based on the weight that the panel should give his evidence.

The panel heard and accepted the advice of the legal assessor. Like Ms Evans he referred to the cases of *EI Karout* and *Thorneycroft*. He directed the panel to the four tests in paragraph 45 of *Thorneycroft*. In respect of paragraph 45.1.4, he advised the panel to consider whether Mr 1's evidence was the sole and decisive evidence in respect of allegation four in the charge against you. If it were, in order to admit it the panel would need to find it demonstrably reliable or would need to find that there was some other means of testing its reliability. He reminded the panel that Mr 1's two statements were materially different from each other, where Mr 1 described what he saw in the toilet / toilet cubicle. The later statement was more detailed but the page of the statement containing the 'statement of truth' attached to it had not been signed by Mr 1 - despite several specific requests to do so.

The panel carefully considered the submissions of both parties, the two witness statements of Mr 1 together with those of the other two NMC witnesses, and the legal

advice. It applied the *Thorncroft* test and considered the relevant criteria to be applied in deciding whether Mr 1's evidence was relevant, and whether it would be fair to admit it as hearsay irrespective of the question of weight, which would only become relevant at a later stage, and only if the panel had first decided it was fair for the evidence to be admitted. It considered the factors both in favour of and against allowing Mr 1's evidence to be admitted as hearsay.

The panel noted that despite several requests to do so, Mr 1 had not signed the page containing the statement of truth in his witness statement, although he had signed the first page. It concluded that relying on an unsigned statement would present difficulties. It further noted that Mr 1's statements for the internal investigation and for these proceedings contained a number of significant inconsistencies, which could not be resolved without testing by oral evidence.

The panel was of the view that Mr 1's reasons for non-attendance were not sufficient, being a matter of choice arising from his frustration with the NMC rather than anything actually preventing his attendance. The panel noted that the NMC had made repeated attempts to secure Mr 1's attendance. However those attempts had been of limited effect because of administrative errors which had had the opposite effect.

Importantly, Mr 1's evidence appeared to be the sole evidence on several significant matters, including what was found in the toilet, which is relevant to allegation four, an important element of the charge. The panel concluded that elements of Mr 1's evidence were relevant to the overall seriousness of the charge and as such it was important to have the opportunity to test his evidence.

For these reasons the panel determined not to admit the hearsay evidence of Mr 1.

The panel next considered Ms Evans's alternative application.

The panel acknowledged that using its powers under Rule 22(5) is an unusual step but determined that it was the proper course to adopt in this case. The panel considered that Mr 1's evidence was crucial to allegation four in the charge. This was a serious and important allegation that, if proved, might materially impact on sanction. To allow this allegation to fail due simply to Mr 1's disengagement would not achieve the overriding objective of NMC disciplinary proceedings, namely to protect the public (Article 3(4) of the Nursing and Midwifery Order, 2001) - in this case from a nurse who was alleged to have injected drugs while at work.

The panel considered what it understood to be Mr 1's reasons for disengagement (namely irritation with the way in which the NMC had dealt with an GoToMeeting test call and irritation with being sent in error a letter addressed to someone else) were not sufficient to absolve him of his professional responsibility as a registered nurse to assist in the regulatory process.

The panel therefore formally required Mr 1 to attend this hearing to give evidence with the hope that when this requirement is notified to Mr 1 (with the explanation that, unless he has a reasonable excuse, a failure to comply with the requirement is a criminal offence in respect of which a person found guilty is liable to an unlimited fine (Article 44(4) and 44(5) of the 2001 Order) he would be willing to reengage.

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

Ms Moretti applied for part of this case be held in private on the basis that proper exploration of your case involves discussion of your health. The application was made pursuant to Rule 19 of the Rules.

Ms Evans indicated that she supported the application.

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

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

Having heard that there will be reference to your health, the panel determined that your interests in that regard outweighed the public interest in proceeding in public. It therefore determined to hold those parts of the hearing that related to your health in private.

Decision and reasons on facts

At the outset of the hearing Ms Moretti informed the panel that you admitted to charge 1.

The panel therefore finds charge 1 proved, by way of your admission.

In reaching its decisions on the disputed facts, the panel took into account all the written statements and oral evidence of witnesses and the bundle of documents provided by the NMC in this case together with the submissions made by Ms Evans on behalf of the NMC and Ms Moretti on your behalf.

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 witnesses called on behalf of the NMC:

- Mr 1: Staff Nurse - Cochrane Care Home;
- Ms 2: Deputy Manager - Cochrane Care Home;
- Ms 3: Home Manager - Cochrane Care Home.

The panel also heard evidence from you.

Background

The NMC received a referral on 29 November 2018 from Cochrane Care Home ('the Home'). You were employed with the Home as a registered nurse, from 22 April 2016 until you were suspended on 29 November 2018. On 7 September 2017, you additionally commenced employment as a bank nurse for the NHS Greater Glasgow and Clyde ('the NHS Board').

On 28 November 2018 you were found with an unopened vial of Levomepromazine, which matched patient medication that had gone missing. A subsequent audit of drugs at the Home found that two vials of a controlled drug, Midazolam, had gone missing since the count that had been recorded in the controlled drug register at 8:00 that morning. The audit also showed that two vials of Levomepromazine had gone missing from a supply prescribed to a resident who had died a short time earlier.

It is alleged that your actions were dishonest in that you knew you had no clinical justification for possessing the Levomepromazine but took it for your own use. It is further alleged that you were present at your work premises while under the influence of medication and / or an unknown substance and that you injected yourself with unknown medication in the toilet while at work.

You were suspended from the Home on 29 November 2018. The Home conducted an internal investigation resulting in a disciplinary hearing on 20 December 2018 and you were subsequently dismissed on 31 December 2018 for gross misconduct.

You engaged with the local disciplinary and the NMC investigation [PRIVATE] but you have disputed facts of the case. You denied being under the influence of drugs or injecting drugs at work.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor, who referred it to the cases of *Re B (Children)* [2008] UKHL 35, *Braganza v BP Shipping* [2015] UKSC 17, *EI Karout v NMC* [2019] EWHC 28, *Suddock v NMC* [2015] EWHC 3612 (Admin), *Cleare v Attorney General of the Bahamas* [2017] UKPC 38, and *Ivey v Genting Casinos* [2017] UKSC 6.

The panel considered the oral evidence from the witnesses, the documentary evidence and the submissions provided by Ms Evans and Ms Moretti. The panel evaluated the evidence given by the witnesses as follows:

Mr 1, Staff Nurse: Mr 1 was the duty night nurse for 28 - 29 November 2018. He arrived at the Home at about 7:35 for a shift due to start at 8:00. He first went to the gents' toilet and then went to report what he had seen there to Ms 3. The panel noted significant inconsistencies between his oral evidence and each of his written statements. It considered that the statement he had given for the internal investigation immediately after the incident accorded more closely with his oral evidence than the NMC written statement signed on 5 February 2021. In view of the inconsistencies (for example the mention for the first time, in his oral evidence, of a second vial of a controlled drug found on the floor of the vestibule area of the toilet on the same evening which he did not report to anyone at the time) the panel found it difficult to rely on his evidence.

Ms 2, Deputy Manager: The panel considered the evidence of Ms 2 to be credible and reliable. The panel noted that she was consistent in her account of events through her NMC written statement, the Home investigation statement, and oral evidence.

Ms 3, Home Manager: Ms 3 was the Home Manager, she was not on duty on 28 November 2018 but returned to the Home at about 18:00 to bring some cakes left over from another function. She went to look for you having been told by Ms 2 that you had been in the toilets a long time. She gave evidence of seeing a bandage on your arm and of your actions and demeanour. The panel found Ms 3's description of your behaviour and

of your difficulty with speaking clearly to be credible and reliable and noted that she was a person who had experience of dealing with people under the influence of various substances. The panel was however less impressed with the significant gaps and inconsistencies in the evidence about what had happened to the used needle she said Mr 1 had given to her, but which he said he had left on the toilet cistern.

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

Charge 2

- 2) *Your actions were dishonest in that you knew you had no clinical justification for possessing this medication but took it for your own use;*

This charge is found NOT proved.

The panel followed the advice of the legal assessor: its task was first to determine your state of mind when you took the ampoule of Levomepromazine. The panel would then consider whether the ordinary reasonable member of the public would consider your action in taking the ampoule to be dishonest.

Levomepromazine is not a controlled drug and the complex procedures for recording the use and checking the stocks of controlled drugs did not apply to Levomepromazine. This Levomepromazine had been prescribed for a resident who had recently died which meant that if it had been dispensed for any reason on the day in question, there was no-one to whom it should have been given.

You told the panel that on the morning and/or early afternoon of 28 November 2018 you had been asked to give flu jabs to several residents in the home. In order to do this you needed to set up a medication trolley. When doing so you noticed an ampoule of Levomepromazine that had been left in a galley pot on the trolley. There was no indication who this drug was for and as you had been away for the previous two weeks you had no

better personal knowledge. You said you put the ampoule in your pocket to ensure it was not picked up by a resident. You intended to hand it in or report it once you finished the flu jabs.

You then told the panel that a medical emergency arose in an adjacent unit and you were called to deal with it. You needed to call an ambulance, explain the situation to the attending paramedics and then call the resident's relatives to reassure them. You stated that as a result, you forgot that the ampoule of Levomepromazine was in your pocket.

The ampoule came to light when you voluntarily emptied your pockets in front of Ms 3. She told the panel that you said to her that you could not remember where you found the ampoule. Ms 2 told the panel that she could not understand your explanation for having the ampoule in your pocket because your speech was unclear.

The panel considered your explanation for having the ampoule of Levomepromazine in your pocket to be both reasonable and credible. You did not give the specific galley pot and trolley explanation to Ms 3 but, given the panel's findings about your general demeanour at the time, this was not an irreconcilable difference.

The panel considered that having the ampoule of Levomepromazine in your pocket in the circumstances you describe was not a true clinical justification. It was however a good and valid justification and your admission to the specific wording of charge 1 was not something that could be held against you in any way when considering this charge.

The panel noted that Levomepromazine was different from the drug(s) referred to elsewhere in this case and that beyond the mere fact that it was in your pocket, there was no other evidence to suggest that you would or did take Levomepromazine for your own use.

The panel concluded on the balance of probabilities that you had taken the ampoule of Levomepromazine to prevent it falling into the hands of a resident and not for your own use. In these circumstances there could be no question of your action being dishonest.

The panel found charge 2 not proved.

Charge 3

- 3) *On 28 November 2018, you worked and / or attended your work premises, while under the influence of medication and / or an unknown substance;*

This charge is found proved.

In reaching this decision, the panel took into account the oral and documentary evidence of Mr 1, Ms 2 and Ms 3 and your own evidence.

The panel was of the opinion that Mr 1, Ms 2 and Ms 3 gave consistent accounts of you acting in a manner that suggested that you were under the influence of an unknown substance. Mr 1 stated in his Home investigation statement that:

'He appeared to be under the influence of some medication slurred speech and unsteady posture'.

In his oral evidence Mr 1 stated that he first saw you in the duty room and he described your speech at that time as slurred and that you appeared to be drunk or under the influence, but he could not smell any alcohol. When he later saw you in the treatment room he described you as being in a buoyant and jovial mood which was not your usual behaviour.

Ms 2 stated in her NMC statement that when you came out of the toilet she noticed:

'..his eyes were droopy like he was about to fall to sleep. I was halfway through listening to the handover when I noticed he dropped the key at least three times and he said he was not feeling well he looked drunk.'

In her oral evidence she described your speech as slurred and stated that she had difficulty understanding what you were saying.

In her Home investigation statement she said:

'Afterward [Ms 3] and I started talking to him because we are so concerned about the way he's behaving, we were in the office for almost an hour and he's not making any sense at all can't even answer all our questions correctly, he keeps jumping from one story to another...'

Ms 3 in her Home investigation statement describes your conversation as "difficult to follow" and stated:

'He then struggled to open one of the cake boxes I had brought in and left on a desk in that office, and had great difficulty managing to get a bite from one of the cakes as he seemed to lack awareness of the distance between his hand and his mouth. I then asked him if he had taken any medication whilst on shift as I was very concerned about his current behaviour, speech and thought process as he was jumping from one subject to another, not finishing conversations and seemed drowsy and unsteady on his feet.'

In oral evidence Ms 3 explained that she was experienced in treating people under the influence of drugs and your behaviour on 28 November 2018 was consistent with common symptoms of drug use.

In your evidence to the panel you denied being under the influence of medication or an unknown substance. You told the panel that you felt you were acting normally at all times.

You were asked if you had taken any form of medication at all during your shift and you told the panel that you had not. You stated that the police attended your home approximately 30 minutes after you arrived home on the 28 November, and that they conducted a breathalyser test which proved negative. They did not form the opinion that you had driven home under the influence of any substances.

The panel noted the evidence of Ms 3 which suggested that the police attended your home several hours after she called them; however, they disregarded this evidence as Ms 3 was only giving an account of what she was told by the police as opposed to having first-hand knowledge of what actually happened. Nevertheless, the panel determined that, as the effect of some drugs can dissipate quite quickly, the evidence of your state of impairment at home, several hours after Ms 2 first observed you acting in an impaired manner, did not disprove your state of impairment while on duty at work.

The panel also had regard to the exhibited summary of your local disciplinary hearing on the 20 December 2018 which was signed by you as an accurate summary. The summary indicates that you had told the Human Resources Advisor on the 30 November 2018 that you could not remember a lot from 18:00 onwards on the 28 November 2018. [PRIVATE]. The panel concluded that these extracts from your disciplinary hearing, undermined your oral evidence and suggested that you had accepted on an earlier occasion that your behaviour did appear to be erratic on the 28 November 2018.

The panel concluded that your evidence did not rebut the evidence as to your impairment while on duty, presented by Mr 1, Ms 2 and Ms 3.

The panel concluded that there was mutually corroborative and credible evidence of your erratic behaviour while on duty on the 28 November 2018, therefore in the absence of any other explanation for your erratic behaviour, it found that it was more likely than not that you were under the influence of medication and / or an unknown substance.

Consequently, the panel found charge 3 to be proved.

Charge 4

- 4) *On 28 November 2018, injected yourself with unknown medication in the toilet while at work;*

This charge is found NOT proved.

In reaching this decision, the panel took into account the oral and documentary evidence of Mr 1, Ms 2 and Ms 3 and your own evidence.

This allegation is very serious as it suggests an extreme departure from the standards expected of a registered nurse, and behaviour which is fundamentally incompatible with being a registered nurse. The panel therefore, in accordance with the advice of the legal assessor first considered whether the NMC had provided cogent evidence to support this charge.

The panel noted that the NMC did not produce any direct evidence of you injecting yourself with an unknown substance or any forensic evidence linking you to the empty vial or the needle that were seen in the toilet. The panel regarded Mr 1's evidence as crucial to this charge as it is the only evidence presented by the NMC to identify where the needle was when it was found.

Mr 1's evidence was confused and contradictory. In his Home investigation statement he explained that he found '*a used needle on the toilet cistern*'. In his NMC statement he explained that he found '*a broken file [sic] of morphine as well as used needle*' but said he found them '*next to the sink*'. In addition, in the NMC statement Mr 1 explained that '*he also saw another used needle inside one of the toilets*'. However in his oral evidence he finally accepted that he could say no more than that he noticed but then left a needle and a vial on the cistern.

The panel noted that Ms 3 gave a very different version of events. She said Mr 1 had given her just a needle he said he found in the toilet. She said she later returned to the toilet and found an empty vial not on the cistern but on the floor behind the toilet pipe. She said that she carefully picked up the empty vial with gloves and later gave it to the police for forensic examination. This forensic examination showed no finger prints or any other DNA evidence on this vial.

The panel noted that Ms 3 gave no explanation as to why she did not give the used needle (which may have contained blood and DNA evidence or may have had the user's finger prints on it) to the police. It also noted that Ms 3 gave no explanation as to why she did not challenge you with this needle at the time which would have given you the opportunity to explain yourself.

The panel was further concerned by evidence given by Mr 1 for the very first time at the hearing. He said he had gone back into the toilet with another member of staff. They had together discovered a vial of Midazolam. This was a controlled drug that had gone missing from the controlled drugs stock on that day. Despite this Mr 1 said he did not pick up or otherwise report the finding of this controlled drug. There was also no evidence from the other staff member Mr 1 said accompanied him. When initially asked why he had not mentioned finding a second vial in his Home statement he said that this was because he found the second vial after he had made his Home statement. However, in response to questions from the panel, he stated that he found the second vial later in the evening of the 28 November 2018 but could not explain why he had not reported finding it. The panel noted that Mr 1 was also unclear in his oral evidence as to whether he found one needle or two, although he concluded it must have been only one.

The panel noted that no witness was able to state what happened to the needle, Mr 1 said he left in the toilet but which Ms 3 said he gave to her. The panel determined that this would have been very important, if not crucial, evidence to support an allegation that you had injected yourself in the toilet and the lack of explanation for what appears to be a mysterious disappearance of the needle troubled the panel.

The panel was of the opinion that the inconsistencies in Mr 1's evidence adversely impacted the reliability of his evidence, and as such it determined that his evidence was not capable of being relied on as cogent evidence.

You explained that you had hurt your hand on a faulty door latch in the upstairs treatment room earlier in the day and had put a bandage over the injury. The panel found this explanation consistent with Ms 2's Home investigation statement, as she stated that you told her your hand was '*caught*' in something, which is why you were wearing a bandage. Mr 1 stated that your arm was visibly cut and you told him you had cut yourself. The panel therefore accepted that you had suffered a minor injury. The panel considered that this was a plausible explanation for the witness evidence identifying blood on your hand, blood on the sink and floor in the toilet, and blood or bloodstains on your hand. The panel determined that it could not infer that the mere presence of a bandage and blood was evidence of you injecting yourself.

The panel recognised that the evidence from Ms 2 and Ms 3 which was that they saw a bandage tied tightly around your upper arm in a way that could act as a tourniquet would support a suggestion that you had just injected yourself. However when these witnesses helped you to remove the bandage they gave evidence of seeing different marks to your arm, Ms 2 said she saw a pin prick and a raised vein whereas Ms 3 saw no pin prick rather only a circular graze to the back of your hand. She did not see a raised vein. Given these inconsistencies the panel was unable to decide how, if at all, your arm was marked.

The panel regarded the other evidence (such as your general behaviour and demeanour) that might point to you injecting yourself in the toilet was no more than circumstantial. It required inferences to be drawn that the panel felt unable to draw. The panel therefore found insufficient cogent evidence to prove on the balance of probabilities that you had injected yourself while in the toilet at work.

The panel found charge 4 not proved.

Adjournment

Having handed down its decision on the factual allegations, and having received some further documents relating to the question of impairment the case adjourned and resumed on 4 November 2021.

Further Adjournment Applications

The panel reconvened on 4 November 2021 to consider the issues of misconduct and impairment of fitness to practice. All parties were present at 9:00, however as a result of observations from Ms Evans, Ms O'Neil requested a short adjournment of the hearing in order to contact a particular party.

Ms O'Neil informed the panel that you had become unwell during the course of the morning and she asked the panel to further adjourn to ascertain your wellbeing and for her to take instructions in relation to matters raised by the NMC.

At 14:15 Ms O'Neil informed the panel that she had not been able to take instructions and requested a further adjournment until Friday morning 5 November 2021.

Ms Evans, who was aware of the reasons for Ms O'Neil's various applications supported the adjournments.

The panel adjourned the hearing until 5 November 2021.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether your fitness to practise is currently impaired. 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, and only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, your fitness to practise is currently impaired as a result of that misconduct.

Submission 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.

Ms Evans identified the specific, relevant standards where your actions amounted to misconduct and submitted that the misconduct in this case concerns you being in possession of medication belonging to Patient A without any clinical justification and that you also worked and/or attended your work premises whilst under the influence of an unknown substance. She submitted that this behaviour undermines public confidence in the profession and is at the more serious end of the fitness to practise spectrum. She further submitted that the misconduct was in front of colleagues, but also vulnerable

residents who could have been put at risk of harm. These residents were expecting to be cared for by you and you failed to act appropriately whilst on work premises.

Ms Evans submitted that in all the circumstances of this case, your actions departed from the good professional practice expected of a nurse and the facts found proved are sufficiently serious to constitute misconduct.

Ms O'Neil submitted the matters found proved are likely to amount to misconduct.

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. This included reference to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin), *Ronald Jack Cohen v General Medical Council* [2008] EWHC 581 (Admin) and *Zgymunt v General Medical Council* [2008] EWHC 2643 (Admin).

Ms Evans submitted that if the panel are satisfied that the matters found proved do amount to misconduct, the next matter the panel must consider is whether your fitness to practise is currently impaired by reason of that misconduct.

Ms Evans again referred the panel to the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* and the test when considering impairment. She submitted that limbs a, b and c of the test are engaged in this case. She submitted that current impairment can be found both 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.

Ms Evans submitted that it is not possible to say whether there are any concerns in respect of your current nursing practice or whether you have put right the deficiencies in your practice. Further, she submitted, in relation to the risk of repetition, you have a previous fitness to practice history with the NMC. This she stated related to you taking the drug Midazolam from the hospital where you worked without consent, self-administering the same, fraudulently obtaining prescription drugs, including Diazepam from the medical practices where you worked as a community nurse, all for your own use.

Ms Evans told the panel you were also convicted of an offence of attempted fraud on 2 April 2008 in relation to removing a prescription drug without consent for self-administration and also fraudulently obtaining prescription drugs from a medical practice. Ms Evans told the panel that you had a five-year caution order from the NMC, which was imposed on 17 January 2011.

Ms Evans told the panel that there was no evidence of patient harm, however the allegations show a conduct that exposed patients to a serious and unwarranted risk of harm. This she submitted raises concerns about your professionalism and trustworthiness.

Ms Evans submitted that insight is an important concept when considering impairment. She submitted that the panel may consider you have demonstrated some insight as you have admitted charge 1, but that it remains limited. She told the panel that you have not provided any information as to what steps you have taken personally and professionally to ensure that similar behaviour would not be repeated. She also told the panel that there is no substantial insight that has been put forward by you to demonstrate that you have reflected on the potential harm you could have caused to the residents in your care and how you let down your colleagues.

Ms Evans therefore invited the panel to determine the facts found proved do amount to misconduct and that a finding of impairment is required in order to protect the public and maintain public confidence in the professions and the NMC and to also uphold proper professional standards. Ms Evans submitted that public confidence in the profession and

the NMC as its regulator would be undermined if your behavior was allowed to pass effectively unmarked.

Ms O'Neil submitted that you admitted charge 1 and you accept the panel's decision in relation to charge 3. She submitted that the question for the panel is whether you are currently impaired. She submitted that you accept that your fitness to practise is currently impaired but that it remains a matter for the panel to determine.

Ms O'Neil referred the panel to the case of Grant and asked it to consider your reflective piece and your evidence given in this hearing. [PRIVATE]

[PRIVATE] She told the panel that as a result of the conviction you were admonished by the Sheriff. [PRIVATE]

Ms O'Neil told the panel that you are an experienced nurse and this incident raises no concerns in relation to your clinical practice. She told the panel that you qualified as a nurse in 2006 and that you enjoy working as a nurse. She told the panel that you have undertaken training and referred the panel to the certificates in the bundle.

Ms O'Neil told the panel that you accept you are not currently fit to practice, which she submitted is evidence of insight.

In answer to questions from the panel, Ms O'Neil stated you are not currently working and that there are no recent references available. [PRIVATE]

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and *General Medical Council v Meadow* [2007] QB 462 (Admin).

Decision and reasons on misconduct

The panel accepted the submission from Ms Evans.

In addition to the oral submissions, the panel also has written submissions from Ms Evans, and a consolidated bundle containing documents put forward by the NMC (9 pages) and documents put forward by the registrant (56 pages) in relation to the question of impairment.

Importantly at the start of her submissions, Ms O'Neill asked the panel to completely disregard pages 47 -48 of the registrant's documents (a formal reference from Ms 5). The panel acknowledged this and put this reference out of their minds.

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code.

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

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

To achieve this, you must

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

19.4 take all reasonable personal precautions necessary to avoid any potential health risks to colleagues, people receiving care and the public.

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that your behaviour in this case was sufficiently serious and amounts to a significant departure from the standards expected of a nurse and amounted to misconduct. The panel was of the view that attending work while under the influence of medication and/or an unknown substance was undoubtedly a very serious matter which put care home residents at risk of harm.

Decision and reasons on impairment

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

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

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

'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper

professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

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

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

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

The panel finds that care home residents were put at risk and could have been caused physical and emotional harm as a result of your misconduct. Your misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Regarding insight, the panel considered that you made an admission to charge 1 and that you accept the panel's decision in relation to charge 3. The panel considered that this showed some insight into the correct way to handle medication, but insufficient insight into the harm that could be caused, by a nurse attending work, under the influence of unknown substances.

The panel was not satisfied that the misconduct in this case is capable of easy remediation. Therefore, the panel carefully considered the evidence before it in determining whether or not you have remedied your practice. The panel took into account your reflective piece and the references provided. In respect of the reflective piece the panel noted it had been written before it handed down the determination on facts, in May 2021. The reflective piece concentrated on medicines administration and failed to address the most serious matter found proved namely your attendance at work when unfit to do so and the consequences that could have had on the residents you were caring for. The panel felt unable to give great weight to the reflective piece. In respect of the reference submitted, the panel noted that it was somewhat outdated. It was dated September 2020 which is more than a year ago and does not address your clinical practice or indicate whether the writer is aware of the allegations. Therefore, the panel was unable to place much weight on this reference in respect of your current fitness to practise.

The panel noted the training you have completed and that you have been engaging with the NMC, where possible through the proceedings.

The panel determined that these matters are not easily remediable given their seriousness and nature. In light of the 2011 regulatory finding against you, which related to similar matters, the panel determined that there is a high risk of repetition. The panel also note that you have not worked as a nurse for several years and therefore you have not been tested in a clinical environment. The panel noted the relatively short period of time between your previous caution order expiring in January 2016 and this referral to the NMC relating to misconduct in November 2018. In the panel's view the repetition of similar misconduct increases the risk of repetition of the behaviour now found proved. The panel considers this risk to be high.

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 wellbeing 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 proper professional standards for members of those professions.

Even if your current clinical practice were safe, your misconduct in attending work while under the influence of an unknown substance, would be so shocking that the public would expect the NMC to be able to mark public disapproval of such conduct. It is in precisely such circumstances as these that Mrs Justice Cox invited panels to find fitness to practise impaired in order that an appropriate sanction can be imposed.

The panel concluded that public confidence in the professions would be undermined if a finding of impairment were not made in this case and therefore also finds fitness to practise impaired on the grounds of public interest.

Decision and reasons on service of Notice of Hearing on 13 January 2022

The panel was informed at the start of this hearing that Mr Campbell was not in attendance and that the Notice of Hearing letter had been sent to Mr Campbell's registered email address on 6 December 2021.

Further, the panel noted that the Notice of Hearing was also sent to Mr Campbell's representative at Anderson Strathern on 6 December 2021.

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

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mr Campbell 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 Mr Campbell

The panel next considered whether it should proceed in the absence of Mr Campbell. It had regard to Rule 21 and heard the submissions of Ms Evans who invited the panel to continue in the absence of Mr Campbell. She submitted that Mr Campbell had voluntarily absented himself.

Ms Evans referred the panel to the email received from Mr Campbell dated 13 January 2022 which stated that Mr Campbell wishes for the panel to make a decision in his absence.

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 Mr Campbell. In reaching this decision, the panel has considered the submissions of Ms Evans, Mr Campbell's email dated 13 January 2022, 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 Mr Campbell;

- Mr Campbell stated in his email dated 13 January 2022: ‘‘*Mentally I don't feel strong enough to appear in person and wish for the panel to make a decision in my absence*’’;
- There is no reason to suppose that adjourning would secure his attendance at some future date;
- The charges relate to events that occurred in 2018; and
- There is a strong public interest in the expeditious disposal of the case.

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

Sanction

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the Registrar to strike Mr Campbell off the register. The effect of this order is that the NMC register will show that Mr Campbell 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. The panel accepted the advice of the legal assessor.

Submissions on sanction

Ms Evans submitted that the NMC’s position in regard to sanction is that a strike off is the only suitable sanction to address the regulatory concerns in this case.

Ms Evans submitted that the aggravating factors in this case are as follows:

- Mr Campbell was working and attending his workplace whilst under the influence of medication and/or drugs.

- There was a clear abuse of a position of trust whilst Mr Campbell was working.
- Mr Campbell would not have been able to respond appropriately if an emergency situation had occurred.
- Residents could have put been put at a risk of harm.
- Vulnerable residents were expecting to be cared for by Mr Campbell but he failed to act appropriately whilst on work premises.
- Mr Campbell's actions occurred in front of colleagues and therefore put them in a difficult position.
- Mr Campbell had in his possession medication that belonged to a deceased resident without any clinical justification.
- Mr Campbell's previous relevant regulatory history.

Ms Evans submitted that the mitigating factors in this case are as follows:

- Mr Campbell has engaged during these proceedings and has provided an explanation as to why he cannot attend today's hearing.
- The registrant had admitted one of the charges before these proceedings began.
- No known harm came to patients.

Ms Evans explained to the panel that Mr Campbell has previously been referred to the NMC and set out Mr Campbell's previous fitness to practice history detailed within the impairment bundle.

Ms Evans submitted that in this case a caution order is not a suitable sanction given that it is used to address concerns at the lower end of the spectrum. She then went on to submit that in regard to a conditions of practice order, there are no conditions which could address Mr Campbell's actions at the care home. Ms Evans submitted that there are no workable conditions which would address the public protection and public interest concerns in this case.

Ms Evans submitted that Mr Campbell has provided no substantial insight to demonstrate that he has reflected on the potential harm he could have caused to the residents in his care and how he let down his colleagues. She submitted that he does however show emerging insight as he accepted at the impairment stage that he was not currently fit to practice.

Ms Evans submitted that a suspension order would not be sufficient to protect patients, public confidence in nurses or professional standards. She submitted that this is not a case where there is a single instance of misconduct but where a lesser sanction is not sufficient. Ms Evans submitted that whilst the actions of Mr Campbell did occur over one day, they did however occur over a period of time on that day.

Ms Evans submitted that Mr Campbell had been found to be in possession of medication belonging to a resident with no clinical justification and working and/or attending his workplace while under the influence of medication and/or an unknown substance. She submitted that Mr Campbell therefore abused his position of power in regard to access to medication and being under the influence of medication and/or an unknown substance at his workplace. Ms Evans submitted that his actions raise serious concerns about attitudinal and personality problems.

Ms Evans submitted that the element of no evidence of repetition of behaviour since the incident has not been satisfied as the panel have not been provided with a recent reference from Mr Campbell's current employer. She further submitted that the next element that a suspension order would be suitable when the panel is satisfied that the nurse has insight and does not pose a significant risk of repeating behaviour is also not satisfied given the panel's earlier finding that there is a high risk of repetition. Ms Evans reminded the panel of its earlier determination that Mr Campbell showed some insight into the correct way to handle medication, but insufficient insight into the harm that could be caused by a nurse attending work under the influence of unknown substances. She stated that the panel had also commented on the repetition of similar misconduct increases the

risk of repetition of the behaviour which was found proved and considered that the risk was high.

Ms Evans submitted that the matters found proved in charge 1 and 3 are concerning. She submitted that this is aggravated significantly by the fact that Mr Campbell was a registered professional in a care home and he should have provided the most effective level of care and protection, which is a breach of the level of trust and professionalism expected of him as a registered nurse.

Ms Evans submitted that Mr Campbell's actions raise fundamental concerns regarding his reliability and proficiency as a nurse. She submitted the panel may consider there is no level of remediation insight or remorse which could address these actions, accepting the fact that the panel have already found that there was limited remediation and insight in this case. Ms Evans submitted that the public protection and public confidence in the profession and the NMC's role as an effective regulator would not be maintained if a striking off order was not made today.

Ms Evans referred the panel to the NMC guidance on Striking off Orders. She submitted that the misconduct found proved against Mr Campbell is of a serious nature, there has been a lack of remediation to address the concerns and Mr Campbell's actions could have put residents at a risk of real harm.

Ms Evans submitted that Mr Campbell put his own priorities before the needs of the care home and the patients. She submitted that these are serious concerns that could result in harm to patients and could also impact on the public confidence in the profession.

Ms Evans explained that Mr Campbell has a regulatory history for very similar matters. Mr Campbell's previous five year caution order made in 2011 would have expired in January 2016 and these current matters date from November 2018, 22 months after his caution order expired. She submitted that it is the relevant regulatory history that makes the misconduct in this case even more serious.

Ms Evans submitted that a striking off order would therefore protect the public and maintain trust and confidence in the nursing profession and the NMC as a regulator.

Decision and reasons on sanction

Having found Mr Campbell'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. The panel has also 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:

- There was a clear abuse of a position of trust whilst Mr Campbell was working.
- Residents could have been put at a risk of harm.
- Mr Campbell's actions occurred in front of colleagues and therefore put them in a difficult position.
- Mr Campbell's previous relevant regulatory history and conviction for similar matters

The panel rejected the other aggravating features advanced by the NMC, particularly in relation to charge 1 (see above).

The panel also took into account the following mitigating feature:

- Mr Campbell's admission to charge 1

The panel first considered mediation or whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case and the public protection issues identified. 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 Campbell's practice would not be appropriate in the circumstances. The Sanctions Guidance (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 Campbell'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 next considered whether placing conditions of practice on Mr Campbell's registration would be a sufficient and appropriate response. 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. The misconduct identified in this case was not something that can be addressed through retraining or supervision. Furthermore, the panel concluded that the placing of conditions on Mr Campbell'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 misconduct in this case represented a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Mr Campbell's actions is fundamentally incompatible with Mr Campbell remaining on the register.

The panel considered that there are attitudinal issues in Mr Campbell's case, particularly given the previous similar disciplinary findings. The panel was therefore of the view that there was a high risk of repetition in this case and that there was a lack of insight about the potential impact of Mr Campbell's actions on the residents and colleagues. The panel determined that given the public protection and public confidence concerns in this particular case, a suspension order would not be a sufficient, appropriate or proportionate sanction.

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?*

Mr Campbell's actions were a significant departure from the standards expected of a registered nurse, and are fundamentally incompatible with him remaining on the register.

The panel was of the view that the findings in this particular case demonstrate that Mr Campbell's actions were serious and to allow him 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 Mr Campbell's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct himself, 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.

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 Mr Campbell's own interest until the striking-off sanction takes effect.

Submissions on interim order

The panel took account of the submissions made by Ms Evans. She submitted that an interim suspension order was required to mirror the panel's decision on impairment, which is that Mr Campbell is impaired on the grounds of public protection and public interest. She submitted that the appropriate length of the interim order is 18 months to cover the 28 day appeal period and any subsequent appeal.

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 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.

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

That concludes this determination.

This will be confirmed to Mr Campbell in writing.