

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

**Substantive Hearing  
Monday 6 June – Thursday 9 June 2022  
Monday 13 June – Thursday 16 June 2022  
Monday 20 June – Tuesday 21 June 2022**

Virtual Hearing

|                                       |  |
|---------------------------------------|--|
| <b>Name of registrant:</b>            | <b>Sarah Harrison</b>  |
| <b>NMC PIN:</b>                       | 12K1425E   |
| <b>Part(s) of the register:</b>       | Registered Nurse – Sub Part 1<br>Adult Nursing (13 February 2014)  |
| <b>Relevant Location:</b>             | Dudley   |
| <b>Type of case:</b>                  | Misconduct   |
| <b>Panel members:</b>                 | Katharine Martyn (Chair, registrant member)<br>Rosalyn Mloyi (Registrant member)<br>Matthew Wratten (Lay member) |
| <b>Legal Assessor:</b>                | Tracy Ayling QC  |
| <b>Hearings Coordinator:</b>          | Jennifer Morrison  |
| <b>Nursing and Midwifery Council:</b> | Represented by Kate Hare, Case Presenter   |
| <b>Miss Harrison:</b>                 | Not present and unrepresented  |
| <b>Facts proved:</b>                  | All  |
| <b>Facts not proved:</b>              | None   |
| <b>Fitness to practise:</b>           | Impaired   |
| <b>Sanction:</b>                      | <b>Striking-off order</b>  |
| <b>Interim order:</b>                 | <b>Interim suspension order (18 months)</b>  |

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

At the outset of the hearing, Ms Hare, on behalf of the Nursing and Midwifery Council (NMC), made an application that this case be heard partially in private on the basis that proper exploration of the reasons for Miss Harrison's non-attendance involves references to her health and related 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.

The panel determined to go into private session in connection with references to Miss Harrison's health as and when such issues are raised in order to protect Miss Harrison's privacy. It determined that Miss Harrison's right to privacy in respect of her health outweighed the public interest in this hearing being conducted wholly in public.

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

The panel noted that Miss Harrison was not in attendance and that the Notice of Hearing letter had been sent to Miss Harrison's registered email address on 5 May 2022.

Ms Hare submitted that the Notice of Hearing had complied with the requirements of Rules 11 and 34. She further submitted that Miss Harrison clearly had received it, given her contact with the hearings coordinator this morning.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegations, the time, dates and venue of the hearing and, amongst other things, information about Miss Harrison'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 Miss Harrison 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 Miss Harrison**

The panel next considered whether it should proceed in the absence of Miss Harrison. It had regard to Rule 21 and heard the submissions of Ms Hare, who invited the panel to continue in the absence of Miss Harrison.

Ms Hare submitted that given the nature of the information Miss Harrison has provided about her non-attendance, a wholesale adjournment is unlikely to result in her future attendance. She submitted that the allegations related to events that occurred as early as 2016, and a wholesale adjournment would inconvenience the 11 witnesses who have been called to give evidence, two of whom have been warned for today. Ms Hare submitted that Miss Harrison has already provided a number of written representations addressing the charges. She submitted that the panel may be of the view that a short adjournment until the following day is reasonable, given Miss Harrison's reasons for not attending today. However, Ms Hare reminded the panel that Miss Harrison has not requested an adjournment.

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*'.

The panel has decided to proceed in the absence of Miss Harrison. In reaching this decision, the panel has considered the submissions of Ms Hare, the written representations from Miss Harrison, and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones (Anthony William)* (No.2) [2002] UKHL 5 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 Miss Harrison;
- Miss Harrison was offered the opportunity to have a preliminary meeting with the legal assessor and case presenter to discuss the information she provided about her non-attendance, but declined;
- Miss Harrison's reasons for being unable to participate in the hearing were health-related; however, given their nature, postponement would be unlikely to make them better and secure her attendance. In the circumstances, there is no reason to suppose that adjourning would secure Miss Harrison's attendance at some future date;
- Two witnesses have been warned to attend today to give live evidence, nine others are due to attend;
- Not proceeding may inconvenience the witnesses, their employers and, for those involved in clinical practice, the clients who need their professional services;
- The charges relate to events that occurred in 2016 and 2017;
- Further delay may have an adverse effect on Miss Harrison's health and the ability of witnesses to accurately recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Miss Harrison in proceeding in her absence. The panel noted that Miss Harrison has indicated that she disagrees with the evidence relied upon by the NMC, and believes she has been falsely accused. Although this evidence will have been sent to Miss Harrison at her registered email address, Miss Harrison will not be able to challenge it in person and will not be aware of new information which might arise during the course of the hearing. She will not be able to give evidence on her own behalf.

However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies.

Furthermore, the limited disadvantage is the consequence of Miss Harrison'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, appropriate and proportionate to proceed in the absence of Miss Harrison. The panel will draw no adverse inference from Miss Harrison's absence in its findings of fact.

The panel considered a request from Miss Harrison to have a daily transcript of the proceedings provided to her, so that she could respond in writing to the oral evidence given on each day. Following submissions from Ms Hare and advice from the legal assessor, the panel decided that directing the NMC to provide a daily transcript of proceedings would be wholly impractical. It also considered that allowing someone to provide a daily summary to Miss Harrison would potentially present a risk to the integrity of the proceedings and fairness to Miss Harrison, as it may be subjective and not a full account of the events.

The panel considered that, having received the bundles in advance, Miss Harrison has been notified of the order of witness testimony and what the witnesses will say. It acknowledged that by not attending, Miss Harrison will not have the opportunity to cross-examine the witnesses or challenge any testimony given outside of the witness statements. However, as the panel previously determined, this limited disadvantage is the consequence of Miss Harrison's decision to absent herself from the hearing.

Miss Harrison has the right to place anything she wishes the panel to consider in writing before it on each day of the hearing. The panel was also mindful of the need to conduct these proceedings expeditiously and to minimise the inconvenience to witnesses through further delay. Therefore, the panel decided to afford Miss Harrison the opportunity to make

written representations about the witness statements, to be submitted no later than 17:00 on the day before the witness is scheduled to give oral evidence. The panel determined that Miss Harrison should provide written representations about Mr 1 and Ms 2's witness statements by 17:00 on Monday 6 June, and should provide written representations about Ms 3, Ms 4, Ms 5 and Mr 6's witness statements by 09:00 on Tuesday 7 June.

After this decision was communicated to Miss Harrison by the hearings coordinator, Miss Harrison requested that she be permitted to submit all six witness statements as outlined above by 09:00 on Tuesday 7 June. The panel reconvened to consider this request. Following submissions from the NMC and advice from the legal assessor, the panel determined to refuse this request. It decided that it was not reasonable to afford Miss Harrison any further time to submit written representations about the statements of Mr 1 and Ms 2, given the length of time Miss Harrison has had to familiarise herself with the contents of the witness statements.

However, the panel noted the revised witness timetable as submitted by Ms Hare, in which only Mr 1, Ms 2 and Ms 3 were warned for Tuesday 7 June. It determined that it would be reasonable to direct that Miss Harrison provide written representations about the witness statements of Mr 1 and Ms 2 by 17:00 on Monday 6 June, and about the witness statement of Ms 3 by 09:00 on Tuesday 7 June. The panel directed that Miss Harrison be provided with the revised timetable, in order to give her ample time to provide written representations as she so wishes. Miss Harrison provided her responses to Mr 1, Ms 2 and Ms 3's statements in line with this direction.

On the morning of Wednesday 8 June, the panel considered two emails that were sent by Miss Harrison to the hearings coordinator at 16:00 and 16:14 respectively on Tuesday 7 June. These were in response to a reminder from the hearings coordinator that, per the panel's previous direction, any written representations regarding the witness statements of Ms 4, Ms 5, Mr 6, Ms 7 and Ms 8 were to be submitted by 17:00 that day (Tuesday 7 June), in readiness for those witnesses' oral evidence on Wednesday 8 June. In these emails, Miss Harrison stated that she thought she had until 09:00 on Wednesday 8 June

to submit those representations, and stated that it was impossible to draft all five responses within an hour. It was clear to the panel that these emails showed increasing distress on Miss Harrison's part.

The panel invited submissions from Ms Hare, who said that the source of Miss Harrison's distress, the hearing itself, had not changed since Monday 6 June, and in the absence of Miss Harrison actually requesting an adjournment, the hearing could and should safely continue for the same reasons as previously submitted. In terms of the timescales specified by the panel, Ms Hare submitted that Miss Harrison is not being asked to respond to new information that was sent to her at the last minute, but to witness statements and exhibits that have been in her possession for many months now.

Ms Hare submitted that any reasonable adjustments identified should be put into place, and although Miss Harrison had already been offered reasonable adjustments, regrettably, the panel was still in this position. Ms Hare submitted that because [PRIVATE], a postponement would serve no useful purpose.

The panel accepted the advice of the legal assessor.

The panel determined to continue with the hearing. It considered that Miss Harrison was not being asked to respond to new evidence, and as such, was satisfied that the timescales in its previous direction were reasonable. The panel further considered that Miss Harrison's [PRIVATE], and was not persuaded that a postponement would be likely to secure Miss Harrison's attendance.

### **Decision and reasons on potential panel recusal**

Ms Hare informed the panel that a number of redactions should have been made to the bundles received by the panel, but were not. She submitted that the redactions were required to remove information that could be categorised as follows:

- Information that relates to similar allegations that were internally investigated and do not form the basis of the charges
- Opinion evidence of people involved in that internal investigation
- Information about another unrelated allegation that is not before the panel

Ms Hare submitted that the amount of information that should have been redacted is minimal, and the prejudicial effect of two out of three panel members seeing this information is also minimal. Regarding the information about an unrelated allegation, Ms Hare submitted that it went no further than repeating a broad assertion that someone had made. No evidence of any findings that may have been made were included in the bundle. She submitted that there was no need for the panel to recuse itself, and fresh bundles with the necessary redactions would be provided if the panel decided to proceed.

The panel accepted the advice of the legal assessor.

The panel determined not to recuse itself. It considered that it was an experienced and professional panel, and that it could safely put out of its mind any information it may have seen that may prejudice Miss Harrison.

### **Details of charge**

That you, a Registered Nurse, in the course of work at Russell [sic] Hall Hospital through Firstpoint Healthcare Agency between 01 November 2016 and 01 August 2017,

1. Submitted and/or allowed to be submitted on your behalf, one or more of the timesheets listed at Schedule A which:
  - 1.1. was for a shift which you had not worked in whole or in part, and/or;
  - 1.2. had an authorising countersignature which was false.

2. Your actions at one [or] more of the instances at 1.1 above were dishonest in that you knew that you were submitting or allowing to be submitted on your behalf, timesheets with:

2.1. purported hours worked which were false and/or;

2.2. authorising countersignatures which were false.

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

### Schedule A

| <b>Item</b> | <b>Timesheet shift date</b> |
|-------------|-----------------------------|
| A           | 27 November 2016            |
| B           | 15 December 2016            |
| C           | 19/20 December 2016         |
| D           | 15 January 2017             |
| E           | 21/22 January 2017          |
| F           | 28 January 2017             |
| G           | 02 February 2017            |
| H           | 05 February 2017            |
| I           | 09 February 2017            |
| J           | 10/11 February 2017         |
| K           | 18 March 2017               |
| L           | 24 March 2017               |
| M           | 09 April 2017               |
| N           | 19 April 2017               |
| O           | 23 April 2017               |
| P           | 05 May 2017                 |
| Q           | 17 May 2017                 |
| R           | 21 May 2017                 |
| S           | 18 June 2017                |
| T           | 25 June 2017                |
| U           | 01 July 2017                |
| V           | 08 July 2017                |

### **Decision and reasons on application for the remainder of the hearing to be held partially in private**

Ms Hare made an application that the remainder of this case be heard partially in private on the basis that its proper exploration involves references to Miss Harrison's health. The application was made pursuant to Rule 19.

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.

The panel determined to go into private session in connection with references to Miss Harrison's health as and when such issues are raised in order to protect Miss Harrison's privacy. It determined that Miss Harrison's right to privacy in respect of her health outweighed the public interest in this hearing being conducted wholly in public.

### **Decision and reasons on application to admit hearsay evidence**

The panel heard an application made by Ms Hare under Rule 31 to admit the exhibit titled 'JB/02' into evidence. She informed the panel that this document was produced by Mr 1 as a record of what he was told by the Dudley Group NHS Foundation Trust (the Trust) and is therefore hearsay. Ms Hare submitted that the document went directly to the central issue of the dates and times Miss Harrison worked, as well as the accuracy of the timesheet countersignatures, and therefore was relevant. She submitted that the document was created contemporaneously by a professional witness to assist him with his investigation.

Ms Hare submitted that the hearsay evidence was not sole or decisive for any charge, and that with regard to the shift dates listed in Schedule A, the panel would be hearing from the individuals said to be working on those shifts at the time, or the charges would be

supported by Miss Harrison's own admissions. She submitted that the prejudicial impact of Miss Harrison not being able to challenge the contents of the document through cross-examination was minimal, and therefore, it was fair to admit it as evidence.

Ms Hare submitted that the NMC asked the Trust to provide copies of the underlying material relating to JB/02 during the course of its own investigation, but the Trust did not do so. From the material that the NMC was able to access, it was able to identify a number of potential witnesses to speak to, and those individuals have provided witness statements. Ms Hare submitted that the NMC attempted to contact the individual who allegedly countersigned the timesheet dated 6 February 2017, but the Trust confirmed that it had no one by that name, so the trail went cold. She submitted that despite reasonable efforts, further individuals could not be identified for the purpose of obtaining witness statements, and that the panel may consider whether the NMC would be likely to obtain any further direct evidence at this stage.

In the preparation of this hearing, the NMC had indicated to Miss Harrison in the Case Management Form (CMF), which was signed by Miss Harrison on 15 February 2021, that it was the NMC's intention for Mr 1 to provide live evidence to the panel and to rely on exhibit JB/02. Despite knowledge of the nature of the evidence to be given by Mr 1, Miss Harrison made the decision not to attend this hearing. On this basis, Ms Hare advanced the argument that there was no lack of fairness to Miss Harrison in allowing exhibit JB/02 into evidence.

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

The panel gave the application in regard to exhibit JB/02 serious consideration. The panel noted that Mr 1's witness statement and exhibits had been prepared in anticipation of

being used in these proceedings, and his signed witness statement contained the paragraph, *'This statement ... is true to the best of my information, knowledge and belief'*.

The panel considered that exhibit JB/02 was relevant, and was not sole or decisive evidence for any charge. The panel accepted Ms Hare's submissions on the NMC's significant efforts to obtain the underlying material from the Trust, and determined to give what it deemed appropriate weight to this piece of evidence once the panel had heard and evaluated all the evidence before it. The panel considered that Miss Harrison had been provided with a copy of Mr 1's statement and exhibits, and had been given the opportunity to comment on them. Although Miss Harrison would not be able to challenge this evidence in person, the panel considered its previous determination that she had chosen voluntarily to absent herself from these proceedings. It concluded that Miss Harrison would not be unfairly disadvantaged by the NMC's reliance upon exhibit JB/02, and determined to accept the exhibit into evidence.

#### **Decision and reasons on the panel's consideration of the evidence under Rule 24(7)**

Under Rule 24(7), the panel, of its own volition, considered whether there was a case to answer in respect of item C in Schedule A. Item C referred to a timesheet Miss Harrison submitted for a shift purportedly worked on 19 – 20 December 2016. The panel considered that this charge appeared to be particularly reliant on the hearsay evidence contained in exhibit JB/02, namely the comments from the Trust as to the validity of the authorising countersignature, and was not supported by independent witness evidence as was adduced for the other charges. The panel invited Ms Hare to make submissions on this point.

Ms Hare submitted that there was evidence to support this charge, and it was not of such poor quality that it was not capable of safely proving the charge. She submitted that Miss Harrison did not work that shift, and the authorising countersignature was false. As the charges are drafted [using the words 'and/or'], Ms Hare submitted that the panel need only find that one of those are proved.

Ms Hare submitted that Miss Harrison claimed she worked this shift by her submission of a timesheet, which was before the panel. She submitted that if Miss Harrison did submit a timesheet with either incorrect hours or a false countersignature, this is inherently wrong behaviour and calls for an answer. Ms Hare submitted that JB/02 was a reliable record that was provided and recorded as part of a formal investigation. The parties involved in creating the record would be aware of the importance of providing accurate information. She submitted that the accuracy of that record is corroborated by independent witnesses who confirmed that they did not in fact sign the timesheets in question.

Ms Hare referred the panel to the Trust's comment in JB/02 that Miss Harrison did not complete the signing in book for this shift. She submitted that it appears from the evidence that not all wards had a signing in book. However, this particular ward must have kept one, as it was directly referred to regarding this charge, and Miss Harrison would have been expected to sign it if she attended a shift. Ms Hare acknowledged that it was possible that Miss Harrison may have forgotten to sign the book, and therefore, the panel might conclude that this piece of evidence was insufficient to prove the charge.

However, Ms Hare submitted that this was not the only piece of evidence to support the charge that Miss Harrison did not work this shift. She submitted that there was no reference number for this shift, and whilst the panel had heard that it was possible for agency staff to book shifts directly with Russells Hall Hospital ('the Hospital'), it would have been unusual for Miss Harrison to do so, since only three of the claimed shifts did not have a reference number. Furthermore, the panel heard that even if a shift was booked directly with the Hospital, a reference number would still be assigned. Ms Hare submitted that Miss Harrison has not explained why this timesheet had a blank reference number.

Ms Hare acknowledged that Miss Harrison's statement that this shift was not in her most recent diary may be plausible, as she was being asked about this shift a year later and may not have had her old diary in her possession. However, Ms Hare submitted that this

did not prevent Miss Harrison from recalling information about other shifts she may have worked in (particularly November) 2016. Furthermore, she would have had other ways to verify that she worked the shift, and would have had the motivation to do so, given that this was in relation to the important matter of her remaining on the agency books or being asked to repay money.

Ms Hare submitted that exhibit TS/01 is a record that is reliant on multiple instances of human action, and the panel has heard that errors could and did occur. She submitted that it was possible someone may have forgotten to make a note of an agency nurse not completing a particular shift. Ms Hare also submitted that Miss Harrison had recalled that she did not complete certain shifts, yet those shifts were recorded in TS/01 as completed. She submitted that TS/01 was not the definitive evidence of whether Miss Harrison did in fact attend or complete a shift, and that other evidence was available relating to TS/01's verification.

Ms Hare submitted that the countersignature on the timesheet of 19 – 20 December 2016 was false, and that JB/02 was a reliable record of this. She submitted that there was a pattern emerging in the witness evidence, in that only one said that she might have recorded her position as 'nurse in charge'. All other witnesses adamantly denied that they would have done that. Furthermore, all witnesses stated that that they would never have signed a timesheet where the printed name, date and position were pre-populated. Ms Hare submitted that this pattern is evident where the timesheets are false, and therefore supports the hearsay evidence in JB/02.

The panel accepted the advice of the legal assessor. It had regard to *R v Galbraith* [1981] 73 Cr App R 124 in its assessment of the evidence.

The panel was satisfied that there was evidence before it to support a case to answer in relation to item C, Schedule A. It noted that there was clear evidence a timesheet had been submitted. The panel considered that whilst the purported counter signatory had not given evidence as to the validity of the signature, the comments about this timesheet in



- Ms 5: Band 5 Staff Nurse, Russells Hall Hospital;
- Mr 6: Charge Nurse, Russells Hall Hospital;
- Ms 7: Ward Sister, Russells Hall Hospital;
- Ms 8: Ward Sister, Russells Hall Hospital;
- Ms 9: Band 6 Sister (at the time the allegations arose), Russells Hall Hospital;
- Ms 10: Ward Sister; Russells Hall Hospital;
- Ms 11: Registered Nurse; Russells Hall Hospital

Before making any findings on the facts, the panel accepted the advice of the legal assessor.

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

### **Charges 1, 1.1 and 1.2**

That you, a Registered Nurse, in the course of work at Russell [sic] Hall Hospital through Firstpoint Healthcare Agency between 01 November 2016 and 01 August 2017,

1. Submitted and/or allowed to be submitted on your behalf, one or more of the timesheets listed at Schedule A which:

1.1. was for a shift which you had not worked in whole or in part, and/or;

1.2. had an authorising countersignature which was false.

Before determining whether charges 1.1 and 1.2 were found proved in relation to each item in Schedule A, the panel considered whether it could safely conclude that Miss Harrison had, in fact, claimed that she had worked the shifts in Schedule A. It considered that copies of timesheets for all shifts in Schedule A had been introduced into evidence. The panel heard from Mr 1 and some of the other witnesses who were staff nurses, that an agency nurse would keep the completed timesheets and submit them to the agency. The panel concluded that it was only possible for Mr 1 to have exhibited the timesheets if they had been submitted to the agency in support of a claim of hours worked.

Furthermore, the panel considered that an invoice had been raised for each timesheet. It noted from Mr 1's evidence that it is the submission of a timesheet by an agency worker that triggers an invoice being generated, and considered that if the timesheets had not been submitted, the agency would not have paid Miss Harrison, and consequently, the agency would not have had to take steps to recover the money from the Trust.

The panel also considered that in her various responses to the agency, the NMC and the panel directly, Miss Harrison has responded to the question of the validity of the timesheets and the circumstances in which they were submitted. She has not challenged the fact that these timesheets were submitted. It further considered Miss Harrison's own admission in her initial response to the NMC that at least one of these timesheets had inaccurate timings recorded.

The panel bore in mind that the word 'and/or' in the stem of charge 1 meant that for each item in Schedule A, it need only find that Miss Harrison herself had submitted the timesheets and/or had allowed a timesheet to be submitted. In addition, the charge made clear that by use of the words 'one or more' that only one of the sub charges needs to be proved in order to find that charge 1 is proved. In its deliberations on charge 1.1, the panel considered whether the evidence proved that Miss Harrison worked the hours of the shift as claimed. In its deliberations on charge 1.2, the panel considered whether the evidence proved that the authorising countersignature on the timesheet was false.

| A   | 27 November 2016 |
|---|------------------|
| <p><b>Charge 1.1 is found proved</b> in relation to this shift.</p> <p>In reaching this decision, the panel considered the evidence of Ms 3 and Miss Harrison's own representations, in which it was agreed that Miss Harrison had attended this shift, but left early at 04:30. This was supported by a note in Ms 3's ward planner, where she had recorded that Miss Harrison had left the ward at 04:30. However, the panel noted that the timesheet for this shift showed a finish time of 07:00, and found that a timesheet had been submitted with inaccurate hours recorded. The panel further noted that this shift is referred to in a schedule of payments that Firstpoint Healthcare informed Miss Harrison that she was not entitled to have received. It saw no evidence that Miss Harrison disputed the accuracy of this schedule.</p> <p>In reaching this decision, the panel considered Ms 3's evidence that the countersignature on the timesheet was hers, but the hours worked had been amended and the initials next to the hours had been added since she had signed it. Ms 3 confirmed in her oral evidence that the timesheet had the number of hours written out in words in handwriting that was not her own. The panel considered this alongside Miss Harrison's acknowledgement that she would sometimes 'pre-fill' timesheets to save time at the end of her shift, as she needed to head home for childcare reasons.</p> |                  |

| B  | 15 December 2016 |
|--|------------------|
| <p><b>Charge 1.2 is found proved</b> in relation to this shift.</p> <p>In reaching this decision, the panel noted that in exhibit JB/02, Mr 1 recorded Miss Harrison as having commented that she did not have this shift in her diary and was unable to provide further comment. However, it saw no evidence to suggest that Miss Harrison did not work this shift at all, or that she did not complete the shift.</p> <p>The panel considered the evidence of the purported counter signatory, Ms 4, who</p> |                  |

stated that the signature on the timesheet was not her own. Ms 4 was able to point to the areas of the signature that did not match hers. She stated that *“it looks similar but I don’t do my ‘J’ like that”*, and unequivocally confirmed that she did not sign the timesheet.

The panel noted that this timesheet related to a nightshift commencing on 15 December 2016 and ending on 16 December 2016. It heard from Ms 4 that she would have never signed a timesheet before the end of a shift; i.e., she would not have signed it on 15 December 2016. The panel considered it implausible that Ms 4 would sign and write her name in handwriting that does not look like hers and would sign it at a time where she says she would not have signed it.

Furthermore, the panel heard from Ms 4 that as a Band 5 nurse, she was not authorised to sign timesheets for agency nurses, and never did so. This policy was confirmed by other witnesses.

| C   | 19/20 December 2016 |
|---|---------------------|
| <p><b>Charges 1.1 and 1.2 are found proved</b> in relation to this shift.</p> <p>In reaching this decision, the panel noted that a timesheet had been submitted with shift times of 19:00 – 07:30. In exhibit JB/02, Mr 1 recorded the Trust as having commented that Miss Harrison did not sign the signing in book for this shift, and the countersignature did not relate to either of the possible nurses in charge (NIC) on that shift. It heard from witnesses that not every ward had a signing in book, but this ward did, and Miss Harrison would have been expected to sign it. The panel considered that it was possible that Miss Harrison had forgotten to sign it, and was mindful of the hearsay nature of the Trust comments in JB/02. However, the panel considered JB/02 to be a reliable record of Mr 1’s conversation with Miss Harrison, due to the process through which the information was collected. It considered that JB/02 was created for the purposes of a formal investigation, and both Mr 1 and Miss Harrison would have been aware of the importance of this conversation and the accuracy of the record.</p> |                     |

The panel noted that exhibit TS/01 was a Trust record of the finalised and completed shifts worked by Miss Harrison, which showed that she worked a 12-hour shift on 19 December 2016.

The panel considered the limitations of TS/01, which was a record reliant on human activity in an electronic system. It heard that mistakes had been made in the finalising of shifts in the system. However, the panel considered that TS/01 would be more reliable where a shift showed a reduction in hours completed, than where a shift showed that the full 12 hours were completed. This is because a member of staff would have had to actively amend a record to show that a nurse did not work the full shift. A shift recorded as being completed in full would be more likely to be an error, because all shifts are entered onto the system with 12 hours' duration as standard.

It considered that in JB/02, Mr 1 recorded Miss Harrison as having commented on 30 November 2017 that she did not have this shift in her most recent diary, and was unable to provide further information. However, in JB/02, Miss Harrison did not have the shift of 27 November 2016 in her diary, yet she was able to recall that she worked that shift but left early nearly a year later.

The panel noted that this was one of only three timesheets out of a total of 22 that did not have a reference number written on the timesheet, and that the majority of shifts were booked through the agency and as such, had been assigned a reference number. It considered Mr 1's written evidence that each shift required a reference number from the Hospital in order to pay a timesheet, but it was possible for agency nurses to book shifts directly with the Hospital without a reference number. However, the panel also heard from Mr 1 that even if a shift was booked directly, a reference number would still be assigned, and has not heard an explanation from Miss Harrison as to why she did not record a reference number on this timesheet.

The panel considered Miss Harrison's own admission that she left the shift early and

therefore, the timesheet was inaccurate. As the accuracy of the timesheet was in doubt, the panel was satisfied on the balance of probabilities that the countersignature was false.

| <b>D</b>  | <b>15 January 2017</b> |
|---|------------------------|
| <p><b>Charges 1.1 and 1.2 are found proved</b> in relation to this shift.</p> <p>In reaching this decision, the panel heard from Mr 1 that, during the course of his investigation in 2017, Miss Harrison informed him that she came home early at 20:30 on 15 January 2017. It heard from Mr 1 that whilst he was speaking to Miss Harrison on the telephone, Miss Harrison was reviewing her diary to clarify whether she worked a shift or not. The panel considered JB/02 to be a reliable record of Mr 1's conversation with Miss Harrison, due to the process through which the information was collected. It considered that JB/02 was created for the purposes of a formal investigation, and both Mr 1 and Miss Harrison would have been aware of the importance of this conversation and the accuracy of the record. It noted that the timesheet for this shift showed that Miss Harrison worked a full shift ending at 07:30 on the following day, which was 16 January 2017.</p> <p>The panel considered that Miss Harrison had a number of opportunities to correct the record if it was inaccurate, but did not. This shift had been included in a list of shifts she had either allegedly not attended, or attended but left early, which had been provided to her by Mr 1 in his internal investigation report from December 2017. It was supported by an invoice number. This shift remained included in the list of shifts that Miss Harrison was paid for but worked only partially or not at all, and which Miss Harrison had agreed to repay. Miss Harrison had a further opportunity to dispute this record in the County Court, but the panel saw evidence that she did not respond to the claim form issued by Firstpoint Healthcare. This supported the panel's conclusion that Miss Harrison's comments in JB/02 were accurate, and therefore, her timesheet did not reflect the actual hours she worked.</p> |                        |

The panel heard from the purported counter signatory, Ms 5, who, in her oral evidence, said that whilst the signature looked like hers, there were inconsistencies that made her doubt that the signature on the timesheet was hers. Ms 5 was able to point out specific areas of inconsistency, stating that she did not join her first and last name, and she did not write a 'Y' in her signature. The panel noted that whilst Ms 5 was not able to recall whether she signed this timesheet due to the passage of time, she stated that she would not expect to be presented with a timesheet with the boxes in the bottom row for her details ('Print Name', 'Signed', 'Date', 'Position Name') pre-filled, and confirmed that she had never signed a pre-filled timesheet. Furthermore, Ms 5 stated that she would never write her position as 'nurse in charge', but always wrote 'sister'. The panel considered that for Ms 5's signature to be legitimate, she would have had to have signed a timesheet in a way not matching her usual signature and have written her position as a title she never used when referring to herself. In this respect, the panel considered Miss Harrison's admission in earlier statements that she would pre-fill timesheets with the title 'nurse in charge'.

Ms 5 also confirmed that her witness statement contained an error, in that she worked the day shift and not the night shift of 15 January 2017. This was supported by a printout of Ms 5's personal roster, which showed that she worked from 07:00 to 19:30 on 15 January 2017. The panel considered this to be the most reliable record of Ms 5's shift. It heard from Ms 5 that she did not work on 16 January 2017, and whilst she would have overlapped between her day shift ending on 15 January 2017 and Miss Harrison's night shift starting on 15 January 2017, she would not have signed a timesheet before the shift had been completed. The panel concluded that this meant that Ms 5 did not sign the timesheet because she did not have the opportunity to sign it. It determined that on the balance of probabilities, Ms 5 did not sign the timesheet for this shift.

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| <b>E</b>   | <b>21/22 January 2017</b> |
| <b>Charge 1.2 is found proved</b> in relation to this shift. |                           |

In reaching this decision, the panel noted that a timesheet had been submitted for this shift, which showed the hours worked as 19:00 – 07:30. It also noted that in JB/02, Mr 1 had recorded Miss Harrison commenting that she had worked the night shift on this date, and Miss Harrison reiterated this in her statement to the NMC. Mr 6, the purported counter signatory on the timesheet, did not refute this in his evidence.

However, the panel considered that, in his oral evidence, Mr 6 was adamant that the signature on the timesheet was not his, and he did not sign the timesheet. Mr 6 also stated that the way the first name was written was not the way he would have written it, and he would never have written his position as ‘nurse in charge’, a statement the panel considered to be indicative of a pattern. Furthermore, he confirmed that he would complete the bottom row of the timesheet himself, and if he was presented with a pre-filled timesheet, he would ask the member of staff to complete another timesheet and bring it back to him for his signature.

In her statement to the NMC, Miss Harrison asked why she would falsify the signature on a timesheet for a shift she had worked. The panel considered that there could be a number of plausible reasons for her to do that, e.g. she had forgotten to have her timesheet signed before leaving the Hospital. It concluded that the inconsistencies in the timesheet as identified by Mr 6 outweighed Miss Harrison’s written submission on this charge.

| F  | 28 January 2017 |
|--|-----------------|
| <p><b>Charges 1.1 and 1.2 are found proved</b> in relation to this shift.</p> <p>In reaching this decision, the panel noted that a timesheet had been submitted for this shift, which showed the hours worked as 19:00 – 07:30. It considered that in JB/02, Mr 1 had recorded Miss Harrison commenting that she had ‘<i>worked 1.5 hours with a 30 min break [PRIVATE]</i>’. This was corroborated by exhibit TS/01, which recorded one hour as the ‘actual hours worked’ by Miss Harrison on that shift.</p> |                 |

The panel considered the limitations of TS/01, as set out in detail above.

The panel also considered Miss Harrison's own account as recorded in Mr 1's contemporaneous notes of his conversation with Miss Harrison on 30 November 2017 (exhibit JB/03), where she said that she left this shift early as [PRIVATE]. It noted that later in that same conversation, where Mr 1 was discussing this shift with Miss Harrison again, Miss Harrison is recorded in JB/02 as saying that she did not go in at all. The panel considered her response in JB/03 more likely to be correct, as it corresponded with other evidence. It found that regardless of which explanation was correct, Miss Harrison had confirmed that she did not complete the shift in full, which was contrary to what had been recorded in the timesheet.

The panel considered that Miss Harrison had multiple opportunities to challenge the accuracy of these records as previously outlined, but did not. It concluded that on the balance of probabilities, Miss Harrison did not complete this shift.

The panel heard no direct evidence that the counter signature was false. However, it concluded that if Miss Harrison did not attend the shift at all, the signature would have to be false, as she would not have been present to have the timesheet signed. If Miss Harrison had attended but left early, the counter signature would still be false, as none of the Trust nurses who gave evidence said that they would sign a timesheet without the hours filled in, or in advance of an agency nurse completing their shift. The panel considered the obvious risks in doing either, and concluded that for the countersignature to be genuine, the signatory would be required to have acted contrary to expectation. Based on the evidence, the panel concluded that Miss Harrison completed at most 1.5 hours of this shift, and therefore would have left on the evening of 28 January 2017. Even if Miss Harrison had the timesheet signed as she left in a hurry, and was left to fill in the hours later, the signature would not have been dated 29 January 2017.

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| <b>G</b> | <b>2 February 2017</b> |
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**Charges 1.1 and 1.2 are found proved** in relation to this shift.

In reaching this decision, the panel noted that a timesheet had been submitted for this shift, which showed the hours worked as 19:00 – 07:30. However, the panel noted that in JB/02, Mr 1 had recorded the Trust as commenting that Miss Harrison's signature was *'not in the signing in book'* for this shift. This was supported by Miss Harrison's own account as recorded in JB/02, which stated that she had told Mr 1 that she *'broke down on the way in'*. The panel considered JB/02 to be a reliable record of Miss Harrison's comments to Mr 1 for the reasons previously outlined. It also considered that Miss Harrison had multiple opportunities to challenge the accuracy of these records as previously outlined, but did not. It concluded that on the balance of probabilities, Miss Harrison did not work this shift at all.

The panel concluded that if Miss Harrison did not attend this shift at all, then the timesheet submitted must be fraudulent. This was supported by evidence from the purported counter signatory of the timesheet, Ms 11. She confirmed that the signature on the timesheet was not the way she would write it, and the signature was not hers. She also confirmed that she would never sign a timesheet where the name, date and position were pre-filled, and would not refer to herself as the 'nurse in charge'. Furthermore, in her oral evidence, Ms 11 referred to the handwriting of the date, and stated that she did not write the number seven with a line through it [the 'Continental 7'].

The panel considered the wider significance of Ms 11's evidence, and the similar evidence given by other witnesses. It noted that with one exception, the '7' printed in the countersignature date section of every single timesheet submitted for a 2017 shift was a Continental 7. By looking at the date next to Miss Harrison's signature on the timesheets, it noted that Miss Harrison writes her '7s' as Continental 7s. It did not accept this as a coincidence, and considered it to be indicative that the same person was writing this in the countersignature date section of all the timesheets. The panel concluded that this person was clearly Miss Harrison.

The panel considered that Miss Harrison's account that she pre-filled timesheets did not assist her. Not a single witness said that they would sign a timesheet where the counter signatory name, date and position had been pre-populated. The panel logically inferred that if these witnesses would not have signed a timesheet that was pre-filled, and if it has concluded that the counter signatory date had been pre-filled, then the countersignatures on the timesheets must be false.

| H   | 5 February 2017 |
|---|-----------------|
| <p><b>Charges 1.1 and 1.2 are found proved</b> in relation to this shift.</p> <p>In reaching this decision, the panel noted that a timesheet had been submitted for this shift, which showed the hours worked as 19:00 – 07:30. However, the panel noted that in JB/02, Mr 1 had recorded the Trust as commenting that Miss Harrison's signature was <i>'not in [the] signing in book'</i> for this shift. This was supported by Miss Harrison's own account as recorded in JB/02, which stated that she had told Mr 1 that her <i>'car [had] broken down so did not go in'</i>. The panel considered JB/02 to be a reliable record of Miss Harrison's comments to Mr 1 for the reasons previously outlined. The panel considered that Miss Harrison had multiple opportunities to challenge the accuracy of these records as previously outlined, but did not. It concluded that Miss Harrison did not work this shift at all.</p> <p>The panel noted that TS/01 had listed this shift as having been worked in full, with no note to indicate otherwise. It considered the limitations to TS/01 as previously outlined, and concluded for the reasons previously outlined, this entry in TS/01 is more likely to be inaccurate than not. The panel acknowledged this apparent contradiction, but when supported by the other evidence, in particular, Miss Harrison's own recollection that she did not attend the shift for a particular reason that she could recall, the panel concluded that on the balance of probabilities, Miss Harrison did not work this shift at all.</p> |                 |

The panel considered the hearsay evidence from the Trust in JB/02 that the *'signature confirmed to be not legitimate by ward manager/NIC'*. This was supported by the logical inference that if Miss Harrison did not attend this shift at all, then the countersignature on the timesheet must be fraudulent, as she would not have been present for the timesheet to have been countersigned.

| I   | 9 February 2017 |
|---|-----------------|
| <p><b>Charges 1.1 and 1.2 are found proved</b> in relation to this shift.</p> <p>In reaching this decision, the panel noted that a timesheet had been submitted for this shift, which showed the hours worked as 07:00 – 19:30. However, the panel noted Miss Harrison’s own account as recorded in JB/02, which stated that she had told Mr 1 that she <i>'took a call – house on fire, left at 11am'</i>. The panel considered JB/02 to be a reliable record of Miss Harrison’s comments to Mr 1 for the reasons previously outlined. Miss Harrison also had a number of opportunities to correct that record as previously outlined, but did not do so. The panel therefore concluded that Miss Harrison’s account was correct.</p> <p>The panel considered the hearsay evidence from the Trust in JB/02 that the signature was <i>'not a recognised signature by the ward and does not relate to any member of staff on that shift'</i>. This was supported by the logical inference that if Miss Harrison only attended part of the shift, then the countersignature must be fraudulent, as another registered nurse would have had to incorrectly authorise a shift that was not completed. The panel considered that this could not have been a timesheet for which Miss Harrison obtained a countersignature in a rush as she was leaving, as the purported countersignature is dated the next day.</p> |                 |

| J   | 10/11 February 2017 |
|---|---------------------|
| <p><b>Charges 1.1 and 1.2 are found proved</b> in relation to this shift.</p> |                     |

In reaching this decision, the panel noted that a timesheet had been submitted for this shift, which showed the hours worked as 19:00 – 07:30. However, the panel noted Miss Harrison’s own account as recorded in JB/02, which stated that she had told Mr 1 that she *‘reported for the shift and left to go home [PRIVATE]*. The panel considered JB/02 to be a reliable record of Miss Harrison’s comments to Mr 1 for the reasons previously outlined. Miss Harrison also had a number of opportunities to correct that record as previously outlined, but did not do so.

The panel noted that in JB/02, Mr 1 recorded the Trust as commenting that this shift was *‘not on off duty/rota book’*. This was supported by the written evidence of Ms 7, who stated that *‘there is a note on the roster that states that the Registrant did not attend the night shift of 10<sup>th</sup> February 2017’*. The panel considered that this explained why this shift did not appear on TS/01. Whilst the panel could not conclusively determine whether the Trust’s records were correct or Miss Harrison’s records were correct, it concluded that Miss Harrison had submitted a timesheet in which she claimed to have worked an 11.5 hour shift, when, by her own admission, she did not. This was supported by Miss Harrison’s explanation in her response to the NMC, where she stated that *‘I can only think that again [I] had forgotten to amend the time I left’*.

The panel heard direct evidence from Ms 7, the purported counter signatory, that the signature on the timesheet was not hers. Similar to other witnesses, Ms 7 confirmed that she would never write her position as ‘nurse in charge’, and that if she was presented with a pre-filled timesheet, she would not sign it and would ask the nurse to complete a new timesheet. Miss Harrison’s account that Ms 7 did in fact sign this timesheet is undermined by her admission to pre-filling the timesheet, because Ms 7 would have had to have failed to notice that the hours completed were completely wrong. The panel considered this to be implausible, and did not accept Miss Harrison’s account. It therefore concluded that the countersignature on this timesheet was false.

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| <b>K</b>   | <b>18 March 2017</b> |
| <b>Charge 1.2 is found proved</b> in relation to this shift. |                      |

In reaching this decision, the panel noted that in exhibit JB/02, Mr 1 recorded the Trust as having commented that this *'shift has not been confirmed by the ward manager/NIC through the system'*. It noted that Miss Harrison stated that she did work the shift. The panel saw no evidence to suggest that Miss Harrison did not work this shift at all, or that she did not complete the shift.

The panel considered the evidence of the purported counter signatory, Ms 8, who said in her oral evidence that the countersignature on the timesheet *"looked a lot like her signature, but there are some things that look unusual"*, specifically that it would be unusual to leave out the 'e' at the end of her signature. Similar to other witnesses, Ms 8 said that she would have never written her position as 'nurse in charge', and she *"certainly"* wouldn't have abbreviated it to 'NIC', but would always write 'sister'. Ms 8 also stated that the writing of the countersignature date was not hers, referring to the Continental 7. Ms 8 also confirmed that she would never pre-fill the countersignature boxes. The panel concluded that if the name, date and position boxes were not filled in by Ms 8, then the countersignature was not either, and therefore must be false.

The panel considered Miss Harrison's account of the veracity of the signature, but concluded that it did not make sense. She first stated that the position held and date would have been prefilled when Ms 8 signed it, which is why Ms 8 did not recognise her signature there. However, the panel heard that Ms 8 would have never signed a pre-filled timesheet, so this would have required Ms 8 to act contrary to how she usually acted. It considered this to be unlikely.

The panel noted that in the alternative, Miss Harrison suggested that Ms 8 would not have realised the timesheet was pre-filled when it was handed to her because it was handed to her at the end of a shift, and she would have been busy. However, the panel heard from Ms 8 that she would look at and check the timesheet, and considered the obvious risks of her failing to do so. Therefore, for the countersignature to be genuine, Ms 8 would have had to act contrary to how she usually acted, as well as illogically.

The panel also found it implausible that Ms 8 could have failed to see the other boxes when signing something so close to them. It considered this to be an example of Miss Harrison bending her account to fit the evidence, but then being caught out by the witnesses' additional evidence.

L

24 March 2017

**Charges 1.1 and 1.2 are found proved** in relation to this shift.

In reaching this decision, the panel noted that a timesheet had been submitted for this shift, which showed the hours worked as 07:00 – 19:30. However, the panel noted that in JB/02, Mr 1 recorded the Trust as commenting that Miss Harrison '[PRIVATE]'. Although Miss Harrison is recorded as stating that she attended the shift but left early, the panel noted that Miss Harrison did not dispute that she did not complete the shift. The panel considered JB/02 to be a reliable record of the Trust and Miss Harrison's comments to Mr 1 for the reasons previously outlined. It also considered that Miss Harrison had a number of opportunities to correct that record as previously outlined, but did not do so. The panel concluded that regardless of whose account was correct, Miss Harrison claimed for hours that she did not work.

The panel logically inferred that if Miss Harrison did not attend that shift at all, then the countersignature must be false, as Miss Harrison would not have been present to have the timesheet signed. Even if Miss Harrison did attend part of the shift, the panel noted that the timesheet has some of the features of the other timesheets where there is direct evidence of the countersignatures being false, such as the Continental 7 in the date and 'NIC' in the position box. Furthermore, for the countersignature to be genuine, the signatory would have had to either sign a blank timesheet, despite the obvious risks in doing so, or to have signed without noticing that the hours recorded were incorrect, which the panel considered to be unlikely for the reasons previously outlined. On this basis, the panel was able to infer that the countersignature on this timesheet was false.

**Charges 1.1 and 1.2 are found proved** in relation to this shift.

In reaching this decision, the panel noted that a timesheet had been submitted for this shift, which showed the hours worked as 19:00 – 07:30. However, the panel noted that in JB/02, Mr 1 recorded the Trust as commenting that it had *'no record of shift being worked'*. The shift's exclusion from TS/01 on the basis that Miss Harrison did not attend was supported by the evidence of the purported counter signatory, Ms 9. Ms 9 stated she and Miss Harrison were not on shift on 9 April 2017, and exhibited her diary to confirm this.

Similar to the other charges, this shift was included in the list in JB/06 of shifts that Miss Harrison was paid in error and had agreed to repay, and she did not query it then or in the County Court later that same year. The panel inferred that this was because it was correctly recorded that Miss Harrison did not attend the shift. It also considered Miss Harrison's own recollection in her response to the NMC, where she stated that *'I left this shift at 2230 I believe due to [PRIVATE] but again have forgotten to amend the time as is my mistake.'* The panel concluded that regardless of whose account was correct, Miss Harrison claimed for hours that she did not work. It noted that her explanation of the anomaly, as recorded by Mr 1 in JB/02, that she *'crossed through her copy of the timesheet after the event'* could not be correct, as the timesheet exhibited is not crossed through.

The panel heard direct evidence from Ms 9 that the signature on the timesheet could have passed as her own, but the printed name on the timesheet was not her handwriting. Similar to other witnesses, Ms 9 confirmed that she would never write her position as 'nurse in charge' but as 'sister', and she would never sign a pre-filled timesheet. For the countersignature to be genuine, the panel considered that not only would Ms 9 have failed to recognise her own handwriting, she would have had to act contrary to how she usually acted, as well as illogically, on a shift that she did not work. Ms 9 would have also had to either sign a blank timesheet, despite the obvious risks in

doing so, or to have signed without noticing that the hours recorded were incorrect, which the panel considered to be unlikely for the reasons previously outlined.

The panel considered Miss Harrison's response to this, namely that there could have been a shift change that was not updated in the system, to be implausible, as her personal diary records that she was not there. It therefore concluded that the countersignature on this timesheet was false.

| N   | 19 April 2017 |
|---|---------------|
| <p><b>Charges 1.1 and 1.2 are found proved</b> in relation to this shift.</p> <p>In reaching this decision, the panel noted that a timesheet had been submitted for this shift, which showed the hours worked as 07:00 – 19:30. However, the panel noted that in JB/02, Mr 1 recorded the Trust as commenting that Miss Harrison '<i>worked 1.5 hours. [PRIVATE]</i>'. This was supported by TS/01, which showed that 1.5 hours of the shift were logged. It concluded that this was likely to be accurate, as it would have required a member of staff to actively amend the shift length. The panel noted that in JB/02, Miss Harrison did not dispute that she did not complete the shift. Although she is recorded as first saying that she left early [PRIVATE], and then saying that she did not attend at all, the panel concluded that regardless of which account is correct, Miss Harrison claimed for hours that she did not work. The panel considered JB/02 to be a reliable record of the Trust and Miss Harrison's comments to Mr 1 for the reasons previously outlined. It also considered that Miss Harrison had a number of opportunities to dispute the record as previously outlined, but did not do so.</p> <p>The panel logically inferred that if Miss Harrison did not attend that shift at all, then the countersignature must be false, as Miss Harrison would not have been present to have the timesheet signed. Even if Miss Harrison did attend part of the shift, the panel noted that the timesheet has at least one of the features of the other timesheets where there is direct evidence of the countersignatures being false, the 'nurse in charge' in the position box. Furthermore, for the countersignature to be genuine, the signatory would</p> |               |

have had to either sign a blank timesheet, despite the obvious risks in doing so, or to have signed without noticing that the hours recorded were incorrect, which the panel considered to be unlikely for the reasons previously outlined. On this basis, the panel was able to infer that the countersignature on this timesheet was false.

O

19 April 2017

**Charges 1.1 and 1.2 are found proved** in relation to this shift.

In reaching this decision, the panel noted that a timesheet had been submitted for this shift, which showed the hours worked as 19:00 – 07:30. In TS/01, Miss Harrison was recorded as having worked 1.33 hours of this shift, and the panel considered this to be credible evidence that she attended at least part of the shift for the reasons previously identified. However, in JB/02, Mr 1 recorded the Trust as commenting that there was *'no documentation on ward to suggest [that Miss Harrison] worked'*. This was supported by Miss Harrison's own recollection in JB/02 that *'she didn't go into work that date, not in diary'*. The panel concluded that regardless of which account is correct, Miss Harrison claimed for hours that she did not work. It considered that Miss Harrison had a number of opportunities to dispute the accuracy of the record as previously outlined, but did not do so.

The panel noted that in JB/02, the Trust commented that the *'Signature confirmed to be none [sic] legitimate by NIC/Ward Manager'*. Although there was no direct evidence to support this statement, the panel logically inferred that if Miss Harrison did not attend that shift at all, then the countersignature must be false, as Miss Harrison would not have been present to have the timesheet signed. Even if Miss Harrison did attend part of the shift, the panel noted that the timesheet has at least one of the features of the other timesheets where there is direct evidence of the countersignatures being false, the 'nurse in charge' in the position box. Furthermore, for the countersignature to be genuine, the signatory would have had to either sign a blank timesheet, despite the obvious risks in doing so, or to have signed without noticing that the hours recorded were incorrect, which the panel considered to be unlikely for the reasons previously

outlined. On this basis, the panel was able to infer that the countersignature on this timesheet was false.

P

5 May 2017

**Charges 1.1 and 1.2 are found proved** in relation to this shift.

In reaching this decision, the panel noted that a timesheet had been submitted for this shift, which showed the hours worked as 07:00 – 19:30. In JB/02, Mr 1 recorded the Trust as commenting that there was *'no record of shift'*. This shift was not listed in TS/01, which the panel considered to be reliable evidence that Miss Harrison did not attend this shift at all for the reasons previously outlined. The panel noted that in JB/02, Miss Harrison did not dispute that she did not complete the shift. Although she is recorded as stating that she *'[PRIVATE]'*, the panel concluded that regardless of whether she left the shift early or did not attend at all, Miss Harrison claimed for hours that she did not work. The panel considered that Miss Harrison had a number of opportunities to dispute the accuracy of the record as previously outlined, but did not do so.

The panel noted that in JB/02, the Trust commented that the signature was *'Not a recognised signature'*. Although there was no direct evidence to support this statement, the panel logically inferred that if Miss Harrison did not attend that shift at all, then the countersignature must be false, as Miss Harrison would not have been present to have the timesheet signed. Even if Miss Harrison did attend part of the shift, the panel noted that the timesheet has some of the features of the other timesheets where there is direct evidence of the countersignatures being false, the 'nurse in charge' in the position box and the Continental 7 in the date. Furthermore, for the countersignature to be genuine, the signatory would have had to either sign a blank timesheet, despite the obvious risks in doing so, or to have signed without noticing that the hours recorded were incorrect, which the panel considered to be unlikely for the reasons previously outlined. On this basis, the panel was able to infer that the countersignature on this timesheet was false.

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| <b>Q</b>  | <b>17 May 2017</b> |
| <p><b>Charges 1.1 and 1.2 are found proved</b> in relation to this shift.</p> <p>In reaching this decision, the panel noted that a timesheet had been submitted for this shift, which showed the hours worked as 07:00 – 19:30. In JB/02, Mr 1 recorded the Trust as commenting that there was <i>'no record of shift'</i>. This shift was not listed in TS/01, which the panel considered to be reliable evidence that Miss Harrison did not attend this shift at all for the reasons previously outlined. The panel noted that in JB/02, Miss Harrison recalled that she completed some of the shift, stating that she <i>'Left shift at 2050 – [PRIVATE]'</i>. However, the panel concluded that regardless of whether she left the shift early or did not attend at all, Miss Harrison claimed for hours that she did not work. The panel considered that Miss Harrison had a number of opportunities to dispute the accuracy of the record as previously outlined, but did not do so.</p> <p>The panel noted that in JB/02, the Trust commented that the signature was <i>'Not a recognised signature'</i>. Although there was no direct evidence to support this statement, the panel logically inferred that if Miss Harrison did not attend that shift at all, then the countersignature must be false, as Miss Harrison would not have been present to have the timesheet signed. Even if Miss Harrison did attend part of the shift, the panel noted that the timesheet has some of the features of the other timesheets where there is direct evidence of the countersignatures being false, the 'nurse in charge' in the position box and the Continental 7 in the date. Furthermore, for the countersignature to be genuine, the signatory would have had to either sign a blank timesheet, despite the obvious risks in doing so, or to have signed without noticing that the hours recorded were incorrect, which the panel considered to be unlikely for the reasons previously outlined. On this basis, the panel was able to infer that the countersignature on this timesheet was false.</p> |                    |

|   |                    |
|---|--------------------|
| <b>R</b>  | <b>21 May 2017</b> |
| <p><b>Charges 1.1 and 1.2 are found proved</b> in relation to this shift.</p> |                    |

In reaching this decision, the panel noted that a timesheet had been submitted for this shift, which showed the hours worked as 19:00 – 07:30. In JB/02, Mr 1 recorded the Trust as commenting that this shift was *'not in the signing in book'*. This shift was not listed in TS/01, which the panel considered to be reliable evidence that Miss Harrison did not attend this shift at all for the reasons previously outlined. The panel noted that in JB/02, Miss Harrison recalled that she completed some of the shift, stating that she *'Left at 11PM, [PRIVATE]'*. However, the panel concluded that regardless of whether she left the shift early or did not attend at all, Miss Harrison claimed for hours that she did not work. The panel considered that Miss Harrison had a number of opportunities to dispute the accuracy of the record as previously outlined, but did not do so.

The panel noted that in JB/02, the Trust did not comment on the validity of the countersignature. However, the panel logically inferred that if Miss Harrison did not attend that shift at all, then the countersignature must be false, as Miss Harrison would not have been present to have the timesheet signed. Even if Miss Harrison did attend part of the shift, the panel noted that the timesheet has some of the features of the other timesheets where there is direct evidence of the countersignatures being false, the 'nurse in charge' in the position box and the Continental 7 in the date. Furthermore, for the countersignature to be genuine, the signatory would have had to either sign a blank timesheet, despite the obvious risks in doing so, or to have signed without noticing that the hours recorded were incorrect, which the panel considered to be unlikely for the reasons previously outlined. On this basis, the panel was able to infer that the countersignature on this timesheet was false.

| S  | 18 June 2017 |
|--|--------------|
| <p><b>Charges 1.1 and 1.2 are found proved</b> in relation to this shift.</p> <p>In reaching this decision, the panel noted that a timesheet had been submitted for this shift, which showed the hours worked as 19:00 – 07:30. The panel noted that there was some evidence that Miss Harrison did complete this shift, as it appears in TS/01.</p> |              |

However, the panel bore in mind the limitations of TS/01, and considered that TS/01 was outweighed by the other evidence that Miss Harrison did not complete this shift. In JB/02, Mr 1 recorded the Trust as commenting that this shift was *'cancelled and not worked'*. Miss Harrison did not dispute that she did not complete the shift, recalling in JB/02 that she *'[PRIVATE]'*. However, the panel questioned the accuracy of that account, as Miss Harrison could not have left early at 08:30 if she was working a night shift that had started at 19:00 and ended at 07:30 the following morning. Nonetheless, the panel concluded that regardless of whether she left the shift early or did not attend at all, Miss Harrison claimed for hours that she did not work. The panel considered that Miss Harrison had a number of opportunities to dispute the accuracy of the record as previously outlined, but did not do so.

The panel noted that in JB/02, Mr 1 recorded the Trust as having commented that the *'Signature confirmed by ward manager/NIC to be not legitimate'*. However, the panel logically inferred that if Miss Harrison did not attend that shift at all, then the countersignature must be false, as Miss Harrison would not have been present to have the timesheet signed. Even if Miss Harrison did attend part of the shift, the panel noted that the timesheet has some of the features of the other timesheets where there is direct evidence of the countersignatures being false, the 'nurse in charge' in the position box and the Continental 7 in the date. Furthermore, for the countersignature to be genuine, the signatory would have had to either sign a blank timesheet, despite the obvious risks in doing so, or to have signed without noticing that the hours recorded were incorrect, which the panel considered to be unlikely for the reasons previously outlined. On this basis, the panel was able to infer that the countersignature on this timesheet was false.

|  |                     |
|--|---------------------|
| <b>T</b>   | <b>25 June 2017</b> |
| <b>Charges 1.1 and 1.2 are found proved</b> in relation to this shift.   |                     |
| In reaching this decision, the panel noted that a timesheet had been submitted for this shift, which showed the hours worked as 07:00 – 19:30. However, the panel noted that |                     |

in her evidence, Ms 10, the purported counter signatory, stated that she had *'checked our electronic roster system and could see that I entered a note on the system that the Registrant left early at 10:30 due to [PRIVATE]*. This is supported by TS/01, which showed that three hours of this shift had been logged. The panel considered TS/01 to be reliable evidence that Miss Harrison left the shift early for the reasons previously outlined.

The panel noted that in JB/02, Mr 1 recorded Miss Harrison as confirming that she worked that shift (*'long day – worked'*). However, Miss Harrison changed her account in her response to the NMC, stating that *'I completely agree I left early and forgot to amend'*. Nonetheless, the panel concluded that regardless of whether she left the shift early or did not attend at all, Miss Harrison claimed for hours that she did not work. The panel considered that Miss Harrison had a number of opportunities to dispute the accuracy of the record as previously outlined, but did not do so.

The panel heard direct evidence from Ms 10 that she *"knew straight away"* that the countersignature on the timesheet was not hers. She also confirmed that she did not recognise the other handwriting on the timesheet to the extent that *'nothing on this timesheet is written by myself'*, and was able to point out specific discrepancies. Similar to other witnesses, Ms 10 confirmed that she would never write her position as 'nurse in charge' but as 'ward sister', and she would never sign a pre-filled timesheet.

For the countersignature to be genuine, the panel considered that not only would Ms 10 have failed to recognise her own handwriting, she would have had to act contrary to how she usually acted, as well as illogically. For this reason, the panel rejected Miss Harrison's explanation that *'the nurse has signed this and not checked the time left or I could have said that I'll amend when I get home'*. It therefore concluded that the countersignature on this timesheet was false, and that Miss Harrison more likely than not completed this timesheet after she returned home to give the impression that she had worked the full shift, when in fact, she had only completed part of it.

The panel considered how Miss Harrison would have been able to do this. It heard from Mr 1 that Miss Harrison would have had access to a 'decent' amount of surplus timesheets, and would have had the information needed to complete it – the name of the authorised counter signatory on that shift.

**U**

**1 July 2017**

**Charges 1.1 and 1.2 are found proved** in relation to this shift.

In reaching this decision, the panel noted that a timesheet had been submitted for this shift, which showed the hours worked as 07:00 – 19:30. In JB/02, Mr 1 recorded the Trust as commenting that Miss Harrison 'worked 3 hours [PRIVATE]'. TS/01 logged two hours of this shift, which the panel considered to be reliable evidence that Miss Harrison left the shift early for the reasons previously outlined. The panel noted that in JB/02, Miss Harrison did not dispute that she left the shift early, stating that she 'Did not go in as [PRIVATE]'. However, the panel concluded that regardless of whether she worked only two or three hours of the shift, Miss Harrison claimed for hours that she did not work. The panel considered that Miss Harrison had a number of opportunities to dispute the accuracy of the record as previously outlined, but did not do so.

The panel noted that in JB/02, the Trust commented that the signature was 'Not a legitimate signature as confirmed by ward manager/NIC'. Although there was no direct evidence to support this statement, the panel logically inferred that if Miss Harrison did not attend that shift at all, then the countersignature must be false, as Miss Harrison would not have been present to have the timesheet signed. Even if Miss Harrison did attend part of the shift, the panel noted that the timesheet has some of the features of the other timesheets where there is direct evidence of the countersignatures being false, the 'nurse in charge' in the position box and the Continental 7 in the date.

Furthermore, for the countersignature to be genuine, the signatory would have had to either sign a blank timesheet, despite the obvious risks in doing so, or to have signed without noticing that the hours recorded were incorrect, which the panel considered to be unlikely for the reasons previously outlined. On this basis, the panel was able to

infer that the countersignature on this timesheet was false.

V

8 July 2017

**Charges 1.1 and 1.2 are found proved** in relation to this shift.

In reaching this decision, the panel noted that a timesheet had been submitted for this shift, which showed the hours worked as 07:00 – 19:30. In JB/02, Mr 1 recorded the Trust as commenting that Miss Harrison *'Worked 7am till 11:30 [PRIVATE]'*. TS/01 logged four hours of this shift, which the panel considered to be reliable evidence that Miss Harrison left the shift early for the reasons previously outlined. The panel noted that in JB/02, Miss Harrison stated that she did not attend the shift at all (*'[PRIVATE] – called and informed ward would not be there'*). However, the panel concluded that regardless of whether she left the shift early or did not attend the shift at all, Miss Harrison claimed for hours that she did not work. The panel considered that Miss Harrison had a number of opportunities to dispute the accuracy of the record as previously outlined, but did not do so.

The panel noted that in JB/02, the Trust commented that the *'Signatory confirmed not their signature'*. Although there was no direct evidence to support this statement, the panel logically inferred that if Miss Harrison did not attend that shift at all, then the countersignature must be false, as Miss Harrison would not have been present to have the timesheet signed. Even if Miss Harrison did attend part of the shift, the panel noted that the timesheet has some of the features of the other timesheets where there is direct evidence of the countersignatures being false, the 'nurse in charge' in the position box and the Continental 7 in the date. Furthermore, for the countersignature to be genuine, the signatory would have had to either sign a blank timesheet, despite the obvious risks in doing so, or to have signed without noticing that the hours recorded were incorrect, which the panel considered to be unlikely for the reasons previously outlined. On this basis, the panel was able to infer that the countersignature on this timesheet was false.

In its deliberations, the panel gave careful consideration to the various representations made by Miss Harrison both to the NMC in the course of its investigation and to the panel directly. However, it found that the numerous inconsistencies in her accounts over the course of these proceedings reduced her credibility and reliability.

### **Charges 2, 2.1 and 2.2**

2. Your actions at one [or] more of the instances at 1.1 above were dishonest in that you knew that you were submitting or allowing to be submitted on your behalf, timesheets with:
  - 2.1. purported hours worked which were false and/or;
  - 2.2. authorising countersignatures which were false.

### **These charges are found proved.**

In reaching this decision, the panel considered that for these charges to be found proved, Miss Harrison must have known that the information on the timesheets was false, and that she knew that the timesheets were being submitted.

The panel concluded that, given its findings above, Miss Harrison must have known that the timesheets contained inaccurate information; as she must have known what the hours she actually worked were. Furthermore, Miss Harrison would have known whether the nurse in charge had actually signed the timesheet because she was there, and by logical inference, when the nurse in charge had not signed the timesheet, it was Miss Harrison who did. The panel did not accept that these acts were anything other than deliberate; false signatures are inherently deceptive, and the sheer number of timesheets submitted over a protracted period of time could not be explained as accidental or the result of forgetfulness.

The panel found Miss Harrison's explanation that she pre-filled the timesheets and forgot to amend them implausible. If her account was correct, she must have pre-filled the timesheets before the shift or at the very start of the shift. This is because some of the timesheets for shifts where Miss Harrison left early have hours after her departure recorded on the timesheet. The panel heard from a number of witnesses that breaks are not at set times on shift; therefore, Miss Harrison could not have known what time she would have her break before she took it, so could not have known that the break times would be accurate when completing her timesheets. It considered that this behaviour was inconsistent with Miss Harrison's assertion in her response to the NMC that she has an '[PRIVATE]', especially with documentation. The panel noted [PRIVATE] as the reason for completing information on the timesheets that others should have completed, but at no point did she appear to have attempted to correct the information on the timesheets that she accepted was false. The panel also considered that Miss Harrison forgetting to amend the timesheets does not explain why the countersignatures were false.

The panel considered Miss Harrison's health-related reasons for not being the one who had submitted the timesheets, but concluded that Miss Harrison must have known that these timesheets were being submitted to Firstpoint Healthcare either by herself or by someone else on her behalf. This is because Miss Harrison was the one who was engaged by the agency, the one who was completing the timesheets, the one who was taking the timesheets back home with her, and the one who was receiving payment for these shifts, and would have had confirmation of this payment because she was receiving payslips. The panel saw no reason for Miss Harrison to have kept the timesheets with inaccurate information, especially in the same place in her office as the timesheets to submit, unless she was intending to use them.

The panel noted that Miss Harrison made reference to her husband submitting the fraudulent timesheets. It considered that even if it had had the benefit of evidence in support of this explanation, the wording of the charge is '*submitted and/or allowed to be submitted on your behalf*'. This meant that if Miss Harrison knew that her husband was

submitting these timesheets and allowed that to happen, either by playing an active role or by simply knowing it was happening and not stopping him, the charge is still made out.

The panel found Miss Harrison's explanation that she used to just throw the timesheets in her office, which her husband submitted without question, implausible. It could not see a reason why, if that was the case, Miss Harrison would also not inform Firstpoint Healthcare that she had not attended or completed the shift. The panel noted that in JB/02, there was no record held by the agency that she notified them. It considered that it could not test Miss Harrison's explanation that she sometimes notified Mr 12. Mr 1's evidence was that contacting Mr 12 would not have been the process for notifying Firstpoint Healthcare of missed shifts that was explained to all staff when they started. Mr 1 also told the panel that he would have expected Mr 12 to tell Miss Harrison to call Firstpoint Healthcare, so that this could be entered into the agency's records.

Finally, the panel noted that Miss Harrison was receiving payments of thousands of pounds into her bank account for over a year. Even if it were true that her husband dealt with all financial matters, as she stated, Miss Harrison was receiving payslips. Considering that Miss Harrison stated that she was the sole breadwinner, the panel considered that she would have been aware that she was being paid for shifts she had not worked, and had every opportunity to notify Firstpoint Healthcare that she was receiving payments in error.

The panel considered that some of the pieces of evidence in this case on their own may have been insignificant or capable of innocent explanation. However, based on the accumulation of evidence, the number of occurrences and the patterns that have emerged, the panel was satisfied that on the balance of probabilities, Miss Harrison knowingly and deliberately submitted, or allowed to be submitted on her behalf, timesheets containing inaccurate hours and/or false countersignatures. The panel considered this to be possible, as Miss Harrison has accepted that on some occasions, she did submit timesheets with inaccurate information. It also considered that Miss Harrison would have had the opportunity, because she had access to spare timesheets,

knew what authorised countersignatures should look like, and, because she did not notify Firstpoint Healthcare of missed shifts, knew that it would be difficult for the agency to verify her hours claimed. Finally, the panel considered that Miss Harrison had the motive, as she referred to [PRIVATE].

The panel came to the conclusion that given its findings above, Miss Harrison knew what she was doing was dishonest. It also found that her conduct was dishonest by the standards of ordinary decent people.

The panel found this to be inherently dishonest behaviour, undertaken with the intention of receiving a financial benefit to which Miss Harrison knew that she was not entitled. Therefore, the panel found charge 2 in its entirety proved.

### **Fitness to practise**

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Miss Harrison'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, Miss Harrison'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 Hare submitted that the facts found proved represented a serious and significant departure from the standards expected of a registered nurse as well as from the standards of ordinary people in everyday life. It was a claim for money to which Miss Harrison knew she was not entitled over an eight-month period on 22 occasions, which the panel had found to be dishonest. This was aggravated by Miss Harrison’s involvement of colleagues in her deception, as by falsifying their signatures, Miss Harrison represented that her colleagues had confirmed something they had not. Ms Hare submitted that this was an inherently dishonest act, and by the standards of a registered nurse and of ordinary people, Miss Harrison’s behaviour amounted 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 Hare identified paragraphs 20.1, 20.2 and 20.3 of the Code as the specific, relevant standards where Miss Harrison’s actions amounted to misconduct.

## **Submissions on impairment**

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

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

Ms Hare submitted that the NMC was not advancing a case for impairment on public protection grounds; however, a finding of impairment in the wider public interest was required. She submitted that acting with honesty and integrity is such a fundamental cornerstone of nursing, that public confidence in the profession would be undermined if impairment was not found. This was particularly the case where the dishonesty was directly related to Miss Harrison's work as a nurse, where it involved her personal financial gain and where it was a sustained period of dishonesty. Ms Hare submitted that a finding of impairment would mark the inappropriate nature of her actions, uphold proper professional standards and uphold public confidence in the profession.

Ms Hare submitted that whilst Miss Harrison made an early apology, she was apologising for what she described as errors and failings, rather than dishonesty, which she has consistently denied. Ms Hare submitted that Miss Harrison sought to blame others for the situation arising; e.g. colleagues signing the timesheets without checking them properly, and her husband for submitting them. She submitted that Miss Harrison had shown no real insight, and sought to minimise the seriousness of her actions by mischaracterising them. Ms Hare submitted that given the nature of the misconduct, any acknowledgement or insight would have little weight at this stage, and the need to maintain public confidence in the profession overrode Miss Harrison's own interests.

The panel accepted the advice of the legal assessor.

### **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 appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, it found that Miss Harrison's actions did fall significantly short of the standards expected of a registered nurse, and amounted to serious breaches 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, treating people fairly and without discrimination, bullying or harassment*

*20.4 keep to the laws of the country in which you are practising.*

***'21 Uphold your position as a registered nurse or midwife***

*To achieve this, you must:*

*21.3 act with honesty and integrity in any financial dealings you have with everyone you have a professional relationship with, including people in your care.'*

The panel found that Miss Harrison's dishonest behaviour over a protracted period of time amounted to nothing short of misconduct.

## **Decision and reasons on impairment**

The panel next went on to decide if as a result of the misconduct, Miss Harrison'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 limbs b), c) and d) were engaged as a result of Miss Harrison's misconduct. Her misconduct has breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. The panel was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

The panel had no evidence before it to suggest that Miss Harrison would not repeat her misconduct. It considered Miss Harrison's attempts to deflect her behaviour and the absence of a meaningful apology from her to be indicative of a lack of insight. At no point has Miss Harrison acknowledged the extent of her deceit and its potential impact. The panel considered that whilst there was no evidence of direct patient harm, patients could have been indirectly affected by Miss Harrison's deception. Miss Harrison knowingly accepted public money allocated for patient care to which she knew she was not entitled. Furthermore, as an agency nurse, Miss Harrison was engaged to cover staffing shortages at a rate significantly higher than that of a staff nurse. On the occasions where she did not complete a shift by arriving late, leaving early or not attending at all, Miss Harrison was not present to provide patient care as expected.

The panel considered the protracted nature of Miss Harrison's deception, and concluded that if Miss Harrison was prepared to commit fraudulent acts from her home, the public would have difficulty with trusting her not to falsify documentation on the ward. The panel found that Miss Harrison was using [PRIVATE] as justification for her actions, when the real cause was her dishonesty. It considered that not everyone who experiences financial hardship steals money, and found that Miss Harrison deliberately exploited weaknesses in a system to her own advantage by committing fraud against the Trust.

The panel concluded that there was a real risk of repetition, and consequently decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel determined that a finding of impairment on public interest grounds is required in order to declare and uphold professional standards, and to maintain public confidence in the profession.

Having regard to all of the above, the panel was satisfied that Miss Harrison'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 Miss Harrison off the register. The effect of this order is that the NMC register will show that Miss Harrison 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 Hare informed the panel that in the Notice of Hearing, dated 5 May 2022, the NMC had advised Miss Harrison that it would seek the imposition of a striking-off order if it found Miss Harrison's fitness to practise currently impaired.

Ms Hare submitted that a striking-off order was the only appropriate and proportionate order in response to the seriousness of the misconduct. She reminded the panel that Miss

Harrison had engaged in a premeditated, systematic, longstanding deception for her personal financial gain.

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

Having found Miss Harrison'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. It had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel accepted the following aggravating features, as proposed by Ms Hare:

- Miss Harrison abused her position of trust for the purposes of her own financial gain. She exploited and maximised weaknesses in the timesheet authorisation process in order to receive payment to which she was not entitled.
- Miss Harrison engaged in a sustained pattern of misconduct. She involved other colleagues in her deception by falsifying their signatures.
- Miss Harrison has shown a complete lack of insight into her failings. She admitted to making 'errors' rather than to her dishonesty. She sought to minimise the seriousness of her actions by mischaracterising them and blaming others, including colleagues and her husband. The panel saw no evidence that Miss Harrison was remorseful for stealing public funds, or that she has made any restitution. It heard from Mr 1 that Miss Harrison has not repaid any of the money owed to Firstpoint Healthcare.

The panel accepted the following mitigating features, as proposed by Ms Hare:

- Miss Harrison detailed the difficult personal circumstances she was experiencing at the time. However, without minimising these difficulties, the panel considered them to have little relevance to her dishonest behaviour. The focus of these proceedings

was on Miss Harrison claiming payment for hours she did not work, not the reasons why she did not attend or complete shifts. The panel also considered that these circumstances did not mitigate Miss Harrison claiming thousands of pounds to which she was not entitled. Finally, the panel considered these circumstances to have limited relevance to the sanction it would go on to impose, as the purpose of a sanction is to protect the public and meet the wider public interest.

- Miss Harrison made early admissions to her failings, but this had limited value in the light of what the panel found proved, and as previously detailed, Miss Harrison mischaracterised her misconduct and has never admitted that her actions in submitting timesheets for hours she had not worked were dishonest.

The panel first considered whether to take no action, but concluded that this would be inappropriate in view of the seriousness of the case and its finding of current impairment. 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, an order that does not restrict Miss Harrison's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Miss Harrison's misconduct was not at the lower end of the spectrum and therefore, a caution order would be inappropriate. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Miss Harrison's registration would be an appropriate and proportionate response. The panel was not satisfied that conditions of practice could address the deep-seated attitudinal nature of Miss Harrison's misconduct. Furthermore, the panel saw no evidence that Miss Harrison was working as a nurse, noting that she has allowed her registration to lapse. It concluded

that no practical or workable conditions could be formulated. The panel was not satisfied that placing conditions on Miss Harrison's registration would adequately address the seriousness of this case and meet the public interest.

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 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; and*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour.*

The panel found that none of these factors were applicable in this case.

The panel also considered the SG in relation to charges of dishonesty:

*'In every case, the Fitness to Practise Committee must carefully consider the kind of dishonest conduct. Not all dishonesty is equally serious. Generally, the forms of dishonesty which are most likely to call into question whether a nurse, midwife or nursing associate should be allowed to remain on the register will involve:*

- *personal financial gain from a breach of trust*
- *premeditated, systematic or longstanding deception*

*The law about healthcare regulation makes it clear that a nurse, midwife or nursing associate who has acted dishonestly will always be at risk [of] being removed from the register.'*

Miss Harrison's misconduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel found that the

serious breach of the fundamental tenets of the profession evidenced by Miss Harrison's actions is fundamentally incompatible with Miss Harrison remaining on the register.

In this particular case, the panel determined that a suspension order would not be an appropriate or proportionate sanction.

Finally, in considering a striking-off order, the panel had regard to the following factors in the SG:

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

The panel considered the misconduct in this case to be so serious that to allow Miss Harrison to remain on the register would seriously undermine public confidence in the profession and in the NMC as a regulatory body.

Balancing all of these factors, and after considering all the evidence before it, the panel determined that the appropriate and proportionate sanction is a striking-off order. Having considered the effect of Miss Harrison'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 Miss Harrison in writing.

## **Interim order**

As the striking-off order cannot take effect until the end of the 28-day appeal period, or the conclusion of any appeal lodged, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Miss Harrison's own interests until the striking-off order takes effect. The panel heard and accepted the advice of the legal assessor.

## **Submissions on interim order**

Ms Hare submitted that based on the panel's previous findings on impairment, and the sanction it has imposed, an interim suspension order is necessary to protect the public and is otherwise in the public interest.

Ms Hare submitted that an interim suspension order of 18 months was necessary to allow sufficient time for any appeal lodged to conclude.

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 reasons set out in its decision for the substantive order in reaching the decision to impose an interim order, and concluded that to not impose an interim order would be inconsistent with its previous findings. It noted that whilst Miss Harrison's registration has lapsed, it is still possible for her to return to practice should she renew her registration, which would pose a risk to the public and would not meet the public interest.

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 Miss Harrison is sent the decision of this hearing in writing.

That concludes this determination.