

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

**Substantive Hearing**

**16-17 December 2021  
26, 27, 28, 31 January 2022 and 1 February 2022**

**15-17 June 2022**

**Virtual Hearing**

**Name of registrant:** Arianne Kimberly Natalie Piper

**NMC PIN:** 15C2759E

**Part(s) of the register:** Nursing – Sub part 1 RNMH: Registered Nurse -  
Mental Health (16 February 2016)

**Area of registered address:** Manchester

**Type of case:** Misconduct

**Panel members:** Debbie Hill (Chair, Lay member)  
Jane Scattergood (Registrant member)  
Patricia Richardson (Lay member)

**Legal Assessor:** Robin Hay [16-17 December 2021] [26-31  
January 2022 and 1 February 2022]  
Monica Daley-Campbell [15-17 June 2022]

**Hearings Coordinator:** Roshani Wanigasinghe [16-17 December 2021]  
Vicky Green [26-31 January 2022 and 1 February  
2022] [15-17 June 2022]

**Nursing and Midwifery Council:** Represented by Helen Guest, Case Presenter

**Miss Piper:** Not present and unrepresented

**Facts proved:** 1.a., 1.b., 1.d., 3.a., 3.b., 3.c., 3.d., 3.e., 3.f., 4.a.,  
4.b., 4.c., 5.a., 5.b., 6.b., 6.c., 7.a., 7.b., 8, 9,  
10.a., 10.b., 10.c., 10.d., 10.e., 10.f., 10.h., 10.j.,  
11.a., 11.b.i., 11.b.ii., 11.c.i., 11.c.ii., 11.d., 12.a.,  
12.b. 13, 14.a., 14.b., 14.c., 15

<b>Facts not proved:</b>	1.c. 2, 6.a., 10.g., 10.i.
<b>Fitness to practise:</b>	Impaired
<b>Sanction:</b>	Striking off order
<b>Interim order:</b>	Interim suspension order – 18 months

## Details of charge (as amended)

That you, a registered nurse:

1. On one or more occasions in and around September 2018, you met with Patient A without clinical justification:
  - a. alone with Patient A in his bedroom with the door shut; and/or **[Proved]**
  - b. whilst Patient A was not wearing clothing on the top part of his body; and/or **[Proved]**
  - c. whilst Patient A was in his underwear or alternatively, in his shorts; and/or **[Not proved]**
  - d. away from the ward unsupervised; **[Proved]**
2. On or around 4 September 2018, you brought your mobile phone on to the ward; **[Not proved]**
3. On or around 8 September 2018, you:
  - a. left Patient A's room and/or Flat A with a back pack; **[Proved]**
  - b. gave a MITEL phone to Patient A; **[Proved]**
  - c. contacted and/or attempted to contact Patient A, on one or more occasions; **[Proved]**
  - d. did not give an accurate account to Colleague C of the reason a MITEL phone was given to Patient A; **[Proved]**

- e. did not give an accurate account to Colleague C of whom you were calling on the telephone; **[Proved]**
  - f. told Colleague A that you were not contacting Patient C, or words to that effect, when you were; **[Proved]**
4. Your actions at charge 3.d. above were dishonest in that you:
- a. knew that your account to Colleague C was not correct; **[Proved]**
  - b. attempted to conceal the reason you had given Patient A a MITEL phone; **[Proved]**
  - c. attempted to conceal that you were intending to contact Patient A; **[Proved]**
5. Your actions at charge 3.e. and/or 3.f. above were dishonest in that you:
- a. knew that your account to Colleague C was not correct; **[Proved]**
  - b. attempted to conceal that you had and/or were attempting to contact Patient A; **[Proved]**
6. You did not follow instructions given to you:
- a. By Colleague A on or around 4 September 2018, to take your mobile phone off the ward, or words to that effect; **[Not proved]**
  - b. By Colleague B on or around 5 September 2018, to 'stay away' from Patient A, or words to that effect; **[Proved]**

- c. By Colleague C on or around 8 September 2018, not to make contact with Patient A and/or enter Flat A, or words to that effect; **[Proved]**
  
- 7. On an unknown date between July 2018 and May 2019, you were seated next to Patient A with your:
  - a. hands touching; and/or **[Proved]**
  
  - b. one or more fingers interlinked; **[Proved]**
  
- 8. On unknown dates on one or more occasions between November 2018 and November 2019, without clinical justification you were in contact with Person 1; **[Proved]**
  
- 9. On one or more occasions on unknown dates between September 2018 and December 2019, without clinical justification you were in contact with Patient A; **[Proved]**
  
- 10. You met with Patient A in the community in that:
  - a. on or around 20 May 2019, met with Patient A at your home address; **[Proved]**
  
  - b. on or around 26 May 2019, you attended a music festival with Patient A; **[Proved]**
  
  - c. on or around 26 May 2019, you attended a public house with Patient A; **[proved]**
  
  - d. on or around 29 August 2019, Patient A was present at your home address; **[Proved]**

- e. on an unknown date in or around August 2019, you were with Patient A in Accrington Town Centre; **[Proved]**
  - f. on an unknown date around 19 September 2019, you assisted Patient A in accessing a dentist and/or taking Patient A to his dentist appointment; **[Proved]**
  - g. on an unknown date around 5 November 2019, you attended a gym with Patient A; **[Not proved]**
  - h. on one or more unknown dates between May and December 2019, met with Patient A in the community; **[Proved]**
  - i. on one or more unknown dates between May and December 2019, attended Patient A's place of residence; **[Not proved]**
  - j. on one or more unknown dates between May and December 2019, Patient A attended your place of residence; **[Proved]**
11. You were involved with Patient A's community support and/or care and/or treatment in that you:
- a. Attended one or more probation meetings on unknown dates; **[Proved]**
  - b. Attended one or more meetings with Patient A's support workers:
    - i. on or around 8 July 2019; **[Proved]**
    - ii. on unknown dates between May and November 2019; **[Proved]**
  - c. Discussed Patient A's care and/or treatment with the:

- i. Multi-Disciplinary Team/ Community Support team; **[Proved]**
- ii. Support staff at Patient A's supported accommodation facility;  
**[Proved]**

d. assisted with and/or oversaw Patient A's personal finances; **[Proved]**

12. On one or more unknown dates around 5 November 2019, you gave Patient A:

- a. money; **[Proved]**
- b. clothes; **[Proved]**

13. You are or alternatively, you were previously engaged to Patient A; **[Proved]**

14. Your relationship with Patient A:

- a. was inappropriate and/or not clinically justified; **[Proved]**
- b. crossed professional boundaries; **[Proved]**
- c. was sexual; **[Proved]**

15. Your actions at one or more of the charges 1 to 13 above were sexually motivated in that you intended to pursue a future sexual relationship with Patient A; **[Proved]**

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

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

The panel was informed at the start of this hearing that Miss Piper was not in attendance and that the Notice of Hearing letter had been sent to Miss Piper's registered email address by secure email on 15 November 2021.

The panel considered whether notice of this meeting had been served in accordance with the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 ('the Rules'). It noted that under the recent amendments made to the Rules during the Covid-19 emergency period, a Notice of Hearing/Meeting may be sent to a registrant's registered address by recorded delivery and first-class post, or to a suitable email address on the register.

Ms Guest, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the Rules.

The panel accepted the advice of the legal assessor.

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

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



continue in the absence of Miss Piper. She submitted that Miss Piper had voluntarily absented herself.

Ms Helen referred the panel to an email from Miss Piper dated 2 December 2021 in which she stated:

*“Not attending. Go ahead without me.”*

The panel accepted the advice of the legal assessor.

The panel is aware 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 Piper. In reaching this decision, the panel has considered the submissions of Ms Guest, the email from Miss Piper 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 Piper;
- Miss Piper has informed the NMC that she is not attending and to proceed in her absence;
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- 11 witnesses have been warned to give evidence;
- 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 2018/2019;

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

There is some disadvantage to Miss Piper in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her via secured email, she will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on her own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Miss Piper's decision 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 Piper. The panel will draw no adverse inference from Miss Piper's absence in its findings of fact.

### **Decision and reasons on the NMC application to amend the charges**

Ms Guest made an application to amend some of the charges varying reasons. She said that the proposed amendments to Charges 3d, 3e, 3f are to correct typographical errors, namely to replace reference to Colleague A with Colleague C, to reflect the evidence and the schedule of anonymity. In regard to Charge 4, this amendment would be to the stem of the charge to correct grammatical errors. In regard to Charge 5, this amendment would be to the stem to replace reference to Colleague A with Colleague C, to reflect the evidence and schedule of anonymity. In regard to Charge 7, this amendment is to alter the stem of the charge for clarity. In relation to Charge 11c, she said that the change was to add the word 'the' for purposes of grammatical clarity. Finally, in regard to Charge 15, by adding the phrase "in that you intended to pursue a future sexual relationship with Patient A", Ms

Guest submitted that this was to clarify the precise nature of the case alleged by the NMC.

Ms Guest submitted that the proposed amendments would not cause any unfairness or injustice to Miss Piper. The proposed amendments do not alter the meaning or the substance of the charges.

The panel accepted the advice of the legal assessor that Rule 28 of the Rules.

The panel considered the merits of the case and whether any unfairness would result if the amendment to the charges were made. The grammatical and typographical amendments did not change the substance and meaning of the charges. In regard to Charge 15, this amendment clarifies the nature of the charge and again does not give rise to any prejudice or injustice to Miss Piper.

In these circumstances, the panel allowed the proposed amendments.

**[This hearing resumed on 26 January 2022]**

### **Panels observations on Notice and proceeding in Miss Piper's continued absence**

When this hearing resumed the panel noted that Miss Piper was still not in attendance. It noted that the Notice of Hearing letter that was sent to her registered email address by secure email on 15 November 2021 informed Miss Piper that the hearing would be resuming on 26 January 2022 for a further eight days.

The panel was therefore satisfied that Miss Piper was aware of this hearing and had continued to voluntarily absent herself. The panel decided to proceed in Miss Piper's absence for the same reasons as set out previously.

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

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

The panel has drawn no adverse inference from the non-attendance of Miss Piper.

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

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

- Colleague C: Acting Ward Manager at Mersey Care NHS Trust (the Trust).
- Mr 1: Clinical Nurse Manager at the Trust.
- Ms 2: Employed by the Trust as a Clinical Leader on 3 Wood View (the Ward).

- Mr 3: Employed by the Trust as Ward Manager of the Ward.
- Mr 4: Employed by the Trust as a band 5 Staff Nurse on the Ward.
- Ms 5: Employed by the Trust as a Support Worker on the Ward.
- Ms 6: Detective Constable for Lancashire Police.
- Ms 8: Employed by the Trust as a band 7 Highly Specialist Nurse Practitioner.
- Ms 9: Employed by the Trust as a Domestic Assistant.
- Ms 10: Employed by the Trust as a Bank Support Worker.

## **Background**

Mersey Care is a low and medium secure learning disabilities hospital that accommodates people who are detained under the Mental Health Act. Patients are primarily people who have committed offences and referred by the courts or by prisons when it has been identified that they have a learning disability.

Patient A was referred to Mersey Care in October 2016 by the Forensic Support Service. He was formally transferred from prison and admitted in July 2017. The Forensic Support Service supports people with learning disabilities with an offending record and who are known to the criminal justice system in the community. Patient A was transferred to Mersey Care under Section 38 of the Mental Health Act. Patient A was initially admitted into a low secure unit and later transferred to a medium secure unit. When he was on the Ward Patient A's intellectual function was reassessed. When he was in the community his IQ was recorded as 67 which is in the mild range of the spectrum, however, when he was reassessed his IQ was recorded as 75 which is above the mild range and so he was not deemed to be intellectually disabled. A view was therefore formed that his offending and behaviours were more linked to his autism.

The charges arose whilst Miss Piper was employed by the Mersey Care as a registered nurse working on the Ward. The Ward was a medium secure unit with 36 beds which was split into three wards. Each ward is divided into two six bedded open plan flats. Throughout his admission, Patient A was moved between different flats within the medium

secure unit. Miss Piper worked within the Nurse complement and she case managed more than one service user. Her role would require her to oversee the day-to-day business of the clinical areas, arranging who was due to escort service users for their daily activities. Miss Piper was also responsible for completing handovers, providing updates on clinical presentation and administering medication. Miss Piper was the case manager for a number of service users, but she was not a case manager for Patient A.

The charges arose between July 2018 and December 2019 and relate to an alleged inappropriate relationship between Miss Piper and Patient A which started in her capacity as a registered nurse and continued in the community.

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

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

**Charge 1.a.**

1. On one or more occasions in and around September 2018, you met with Patient A without clinical justification:
  - a. alone with Patient A in his bedroom with the door shut; and/or

**This charge is found proved.**

In reaching this decision, the panel took into account all of the evidence before it, having particular regard to the evidence of Ms 10, Ms 2 and Mr 1.

In establishing whether Miss Piper had a clinical justification for being alone with Patient A, the panel had regard to the evidence of Ms 2 and Mr 1. It noted that Miss Piper was not

Patient A's link manager, psychologist or therapist and she did not therefore have responsibility for his therapeutic care. Furthermore, the panel heard evidence that any relevant information disclosed by a patient had to be documented.

In her witness statement Ms 10 stated that on 3 September 2019 after knocking on Patient A's flat door a number of times without a response from him she entered his flat. When she entered Patient A's flat Ms 10 has written that she observed the following:

*'I stayed in the doorway and I saw [Miss Piper] straight away she was trying to conceal herself in the bathroom, her hands were trying to shut the door, but when she saw me she stopped trying to close the door and just stood in the bathroom.'*

Ms 10, in her oral evidence, explained to the panel what she saw and that Miss Piper was alone with Patient A in his bedroom with the door shut. The panel also has sight of Ms 10's local statement dated 8 September 2018. Furthermore, the panel heard evidence that a nurse should not be alone with a Patient to ensure safety.

The panel found Ms 10 to be a credible and reliable witness, her oral evidence was consistent with her witness statement and her local statement which was given a few days after the incident occurred. The panel therefore found that it was more likely than not that Miss Piper was alone with Patient A in his bedroom with the door shut. Accordingly, the panel found this charge proved.

#### **Charge 1.b.**

1. On one or more occasions in and around September 2018, you met with Patient A without clinical justification:
  - b. whilst Patient A was not wearing clothing on the top part of his body; and/or

**This charge is found proved.**

In reaching this decision, the panel took into account all of the evidence before it, having particular regard to the evidence of Ms 10, Ms 2 and Mr 1.

In her witness statement Ms 10 stated that on 3 September 2019 after knocking on Patient A's flat door a number of times without a response from him she entered his flat. When she entered Patient A's flat Ms 10 has written that she observed the following:

*'[Patient A] was kneeling on the floor under the window. I noted in my local statement that [Patient A] was in a state of undress. From what I can recall he had his shirt off.'*

Ms 10's oral evidence was consistent with her witness statement and local statement dated 8 September 2018. The panel therefore found Ms 10's evidence to be credible and reliable and that it was more likely than not that Patient A was not wearing clothing on the top part of his body. Having already found that Miss Piper was not Patient A's link manager, the panel determined that there was no clinical justification for her being in his room or for him having his top off. Accordingly, the panel found this charge proved.

#### **Charge 1.c.**

1. On one or more occasions in and around September 2018, you met with Patient A without clinical justification:
  - c. whilst Patient A was in his underwear or alternatively, in his shorts; and/or

**This charge is found not proved.**

In reaching this decision, the panel took into account the evidence of Ms 10.



In her oral evidence Ms 10 told the panel that she was not sure what Patient A was wearing on his bottom half. She said that he could have been wearing shorts or trouser. The panel therefore found this charge not proved.

**Charge 1.d.**

1. On one or more occasions in and around September 2018, you met with Patient A without clinical justification:

- d. away from the ward unsupervised;

**This charge is found proved.**

In reaching this decision, the panel took into account all of the evidence before it, having particular regard to the evidence of Ms 10, Ms 2 and Mr 1.

Having found charge 1.a. proved and having already found that Miss Piper did not have any clinical justification for meeting with Patient A, the panel found this charge proved for the same reasons as set out at charge 1.a.

**Charge 2**

2. On or around 4 September 2018, you brought your mobile phone on to the ward;

**This charge is found not proved.**

In reaching this decision the panel had regard to Mr 11's evidence given at the fact finding interview on 4 March 2019.

The panel noted that Mr 11, in the fact finding interview, stated that he saw Miss Piper with her mobile phone on the Ward. Mr 11 had not provided a witness statement to the NMC or

been called as a witness, the panel therefore determined that the only evidence to support this charge is hearsay evidence.

The panel found that the evidence is relevant to this charge and that it is fair to admit it. However, as this evidence is untested, the panel was of the view that little weight should be attached to it and it could not be solely relied on to find this charge proved. Accordingly, the panel found this charge not proved.

**Charge 3.a.**

3. On or around 8 September 2018, you:
  - a. left Patient A's room and/or Flat A with a back pack;

**This charge is found proved.**

In reaching this decision the panel had regard to the evidence of Ms 5.

The panel noted that Ms 5 stated the following in her witness statement:

*'I saw [Miss Piper] come out of [Patient A's] room with a black back pack on.'*

In her oral evidence Ms 5 told the panel that she recalled seeing Miss Piper leaving Patient A's bedroom with a black backpack. The panel noted Ms 5's responses at the local investigation which took place on 8 September 2018 is consistent with her witness statement and oral evidence. The panel found Ms 5 to be a credible and reliable witness. The panel determined that it was more likely than not that Miss Piper left Patient A's room with a back pack. Accordingly, the panel found this charge proved.

**Charge 3.b.**

3. On or around 8 September 2018, you:

b. gave a MITEL phone to Patient A;

**This charge is found proved.**

In reaching this decision the panel had regard to the evidence of Ms 5.

In her witness statement Ms 5 stated the following:

*'[Miss Piper] kept hanging around the entrance of flat A, she went off then came back with the MITEL phone and said to me the phone was for [Patient A].'*

In her oral evidence Ms 5 told the panel that Miss Piper gave the MITEL phone to her and she gave it to Patient A. The panel noted that this was corroborated by Ms 5's response at the local meeting on 8 September 2018. The panel found Ms 5 to be a credible and reliable witness. The panel therefore determined that it was more likely than not that Miss Piper gave Patient A a MITEL phone and found this charge proved.

**Charge 3.c.**

3. On or around 8 September 2018, you:

c. contacted and/or attempted to contact Patient A, on one or more occasions;

**This charge is found proved.**

In reaching this decision the panel had regard to the evidence of Colleague C and Ms 2.

In her witness statement Colleague C stated the following:

*'When returning to the Ward I asked [Ms 2] to check the phone records and the records showed [Miss Piper] was calling the Ward phone. The phone is a cordless phone like a home telephone and all calls are traceable I did not do the checking of the numbers myself, [Ms 2] did but I was there when it happened and I saw the correlation between the phone number dialled and the ward phone and it correlated.*

Ms 2 in her evidence told the panel that she checked the call log and that Miss Piper had contacted Patient A having been instructed not to have any contact with him minutes before doing so. The panel found both Colleague C and Ms 2 to be credible and reliable witnesses. The panel therefore determined that it was more likely than not that Miss Piper had contacted Patient A on one or more occasions on or around 8 September 2018 and found this charge proved.

**Charge 3.d.**

3. On or around 8 September 2018, you:

d. did not give an accurate account to Colleague C of the reason a MITEL phone was given to Patient A;

**This charge is found proved.**

In reaching this decision the panel had regard to the evidence of Colleague C and Ms 2.

In her evidence, Colleague C told the panel that Miss Piper had told her that she had called a family member but when Patient A's call records were checked, Miss Piper had called him and not her family member as she asserted. Ms 2 confirmed that upon examining Patient A call records he had received a call from Miss Piper. The panel found

both Colleague C and Ms 2 were credible and reliable witnesses. The panel determined that it was more likely than not that Miss Piper did not give an accurate account to Colleague C of the reason a MITEL phone was given to Patient A and found this charge proved.

**Charge 3.e.**

3. On or around 8 September 2018, you:

- e. did not give an accurate account to Colleague C of whom you were calling on the telephone;

**This charge is found proved.**

In reaching this decision the panel had regard to the evidence of Colleague C and Ms 2.

Having found charge 3.d. proved, the panel finds this charge proved for the same reasons as set out above in charge 3.d.

**Charge 3.f.**

3. On or around 8 September 2018, you:

- f. told Colleague A that you were not contacting Patient C, or words to that effect, when you were;

**This charge is found proved.**

In reaching this decision the panel had regard to the evidence of Colleague C and Ms 2.

Having found charge 3.d. proved, the panel finds this charge proved for the same reasons as set out above in charge 3.d.

**Charge 4.a.**

4. Your actions at charge 3.d. above were dishonest in that you:
  - a. knew that your account to Colleague C was not correct;

**This charge is found proved.**

In reaching this decision the panel had regard to the evidence of Mr 1, Ms 2, Colleague B and Colleague C.

The panel heard evidence from the senior staff at Mersey Care that when Miss Piper was inducted into the medium secure unit she received training about professional boundaries and what interactions with service users were deemed to be appropriate. The panel also heard evidence that Miss Piper would have been aware the MITEL phone was to only be used for contact with pre-approved authorised numbers that were agreed following a risk assessment.

The panel noted that Miss Piper was trained as a speciality nurse and that as she had received training about the use of the MITEL phones she would have known that her actions were inappropriate. The panel therefore determined that it was more likely than not that she was trying to conceal that she had made contact with Patient A. In particular, the panel determined that it was more likely than not that her actions were dishonest in that she knew that her account to Colleague C was not correct. Accordingly, the panel found this charge proved.

#### **Charge 4.b.**

4. Your actions at charge 3.d. above were dishonest in that you:

b. attempted to conceal the reason you had given Patient A a MITEL phone;

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

In reaching this decision the panel had regard to the evidence of Mr 1, Ms 2, Colleague B and Colleague C.

The panel heard evidence from the senior staff at Mersey Care that when Miss Piper was inducted into the medium secure unit she received training about professional boundaries and what interactions with service users were deemed to be appropriate. The panel also heard evidence that Miss Piper would have been aware the MITEL phone was to only be used for contact with pre-approved authorised numbers that were agreed following a risk assessment.

The panel noted that Miss Piper was trained as a speciality nurse and that as she had received training about the use of the MITEL phones she would have known that her actions were inappropriate. The panel therefore determined that it was more likely than not that she was trying to conceal that she had made contact with Patient A. In particular, the panel determined that it was more likely than not that her actions were dishonest in that she knew that she shouldn't have given Patient A a MITEL phone and she attempted to conceal the reason why. The panel therefore found this charge proved.

#### **Charge 4.c.**

4. Your actions at charge 3.d. above were dishonest in that you:

c. attempted to conceal that you were intending to contact Patient A;

**This charge is found proved.**

In reaching this decision the panel had regard to the evidence of Mr 1, Ms 2, Colleague B and Colleague C.

The panel heard evidence from the senior staff at Mersey Care that when Miss Piper was inducted into the medium secure unit she received training about professional boundaries and what interactions with service users were deemed to be appropriate. The panel also heard evidence that Miss Piper would have been aware the MITEL phone was to only be used for contact with pre-approved authorised numbers that were agreed following a risk assessment.

The panel noted that Miss Piper was trained as a speciality nurse and that as she had received training about the use of the MITEL phones she would have known that her actions were inappropriate. The panel therefore determined that it was more likely than not that she was trying to conceal that she had made contact with Patient A. In particular, the panel determined that it was more likely than not that her actions were dishonest in that she knew that she should not have been attempting to contact Patient. Accordingly, the panel found this charge proved.

**Charge 5.a.**

5. Your actions at charge 3.e. and/or 3.f. above were dishonest in that you:
  - a. knew that your account to Colleague C was not correct;

**This charge is found proved.**

In reaching this decision the panel had regard to the evidence of Mr 1, Ms 2, Colleague B and Colleague C.



The panel heard evidence from the senior staff at Mersey Care that when Miss Piper was inducted into the medium secure unit she received training about professional boundaries and what interactions with service users were deemed to be appropriate. The panel also heard evidence that Miss Piper would have been aware the MITEL phone was to only be used for contact with pre-approved authorised numbers that were agreed following a risk assessment.

The panel noted that Miss Piper was trained as a speciality nurse and that as she had received training about the use of the MITEL phones she would have known that her actions were inappropriate. The panel therefore determined that it was more likely than not that she was trying to conceal that she had made contact with Patient A. In particular, the panel determined that it was more likely than not that her actions were dishonest in that she knew her account to Colleague C was not correct. The panel therefore found this charge proved.

**Charge 5.b.**

5. Your actions at charge 3.e. and/or 3.f. above were dishonest in that you:

- b. attempted to conceal that you had and/or were attempting to contact Patient A;

**This charge is found proved.**

In reaching this decision the panel had regard to the evidence of Mr 1, Ms 2, Colleague B and Colleague C.

The panel heard evidence from the senior staff at Mersey Care that when Miss Piper was inducted into the medium secure unit she received training about professional boundaries and what interactions with service users were deemed to be appropriate. The panel also

heard evidence that Miss Piper would have been aware the MITEL phone was to only be used for contact with pre-approved authorised numbers that were agreed following a risk assessment.

The panel noted that Miss Piper was trained as a speciality nurse and that as she had received training about the use of the MITEL phones she would have known that her actions were inappropriate. The panel therefore determined that it was more likely than not that she was trying to conceal that she had made contact with Patient A. In particular, the panel determined that it was more likely than not that Miss Piper's actions were dishonest in that she knew that she should not have been contacting Patient A and attempted to conceal that she had/or intended to contact Patient A. The panel therefore found this charge proved.

**Charge 6.a.**

6. You did not follow instructions given to you:
  - a. By Colleague A on or around 4 September 2018, to take your mobile phone off the ward, or words to that effect;

**This charge is found not proved.**

Having found charge 2 not proved on the basis of insufficient evidence, the panel found this charge not proved for the same reasons as set out at charge 2.

**Charge 6.b.**

6. You did not follow instructions given to you:
  - b. By Colleague B on or around 5 September 2018, to 'stay away' from Patient A, or words to that effect;

**This charge is found proved.**

In reaching this decision the panel had regard to the evidence of Colleague B.

The panel noted that in his witness statement Colleague B stated the following:

*'I made it clear during the supervision for her to stay away from [Patient A].'*

In his oral evidence Colleague B confirmed that he told Miss Piper to stay away from Patient A. The panel found Colleague B to be a credible and reliable witness. The panel therefore determined that it is more likely than not that Colleague B did tell Miss Piper to stay away from Patient A and found this charge proved.

**Charge 6.c.**

6. You did not follow instructions given to you:

- c. By Colleague C on or around 8 September 2018, not to make contact with Patient A and/or enter Flat A, or words to that effect;

**This charge is found proved.**

In reaching this decision the panel had regard to the evidence of Colleague C.

The panel had sight of Colleague C's witness statement in which she stated the following:

*'[Miss Piper] seemed to understand what we had told her, we were so clear and asked her to repeat it back to us so we knew she understood and she repeated that she was to work on the other flat and not have contact with for the rest of the shift until the concerns were looked into.'*

In her oral evidence, Colleague C confirmed that she told Miss Piper that she should not have any contact with Patient A. The panel found Colleague C to be a credible and reliable witness and determined that it was more likely than not that she did tell Miss Piper not to contact Patient A. Accordingly, the panel found this charge proved.

**Charge 7.a.**

7. On an unknown date between July 2018 and May 2019, you were seated next to Patient A with your:
  - a. hands touching; and/or

**This charge is found proved.**

In reaching this decision the panel had regard to the evidence of Ms 9.

The panel had sight of Ms 9's witness statement in which she stated the following:

*'[Miss Piper] and [Patient A] were sat on two armchairs pushed next to each other with their elbows on the chair arm uprights and their fingers were interlinked. They did not have their whole hands interlinked it was a few fingers and they kept moving their hands. I could only see their hands touching.'*

Ms 9, in her oral evidence, told the panel that she saw Miss Piper sitting next to Patient A with their hands touching at the time in question. The panel found the evidence of Ms 9 to be credible and reliable. It therefore determined that it was more likely than not that Miss Piper was sat next to Patient A touching hands and found this charge proved.

### **Charge 7.b.**

7. On an unknown date between July 2018 and May 2019, you were seated next to Patient A with your:
  - a. one or more fingers interlinked;

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

In reaching this decision the panel had regard to the evidence of Ms 9.

The panel had sight of Ms 9's witness statement in which she stated the following:

*'[Miss Piper] and [Patient A] were sat on two armchairs pushed next to each other with their elbows on the chair arm uprights and their fingers were interlinked. They did not have their whole hands interlinked it was a few fingers and they kept moving their hands. I could only see their hands touching.'*

Ms 9, in her oral evidence, told the panel that she saw Miss Piper sitting next to Patient A with their fingers interlinked at the time in question. The panel found the evidence of Ms 9 to be credible and reliable. It therefore determined that it was more likely than not that Miss Piper was sat next to Patient A and had their fingers interlinked and found this charge proved.

### **Charge 8**

8. On unknown dates on one or more occasions between November 2018 and November 2019, without clinical justification you were in contact with Person 1;

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

In reaching this decision the panel had regard to the evidence of Mr 3.

The panel had sight of the witness statement of Mr 3 and noted that in his oral evidence he told the panel that he had spoken to Person 1 who said that Miss Piper had contacted her. As set out previously, the panel determined that there was no clinical justification for Miss Piper to contact Patient A or his family. The panel therefore found this charge proved.

### **Charge 9**

9. On one or more occasions on unknown dates between September 2018 and December 2019, without clinical justification you were in contact with Patient A;

**This charge is found proved.**

In reaching this decision the panel had regard to the evidence of Mr 4 and Ms 6.

In her evidence Ms 6 told the panel that when she met with Patient A he said that they had spent every day together since his release from prison. She also said that when she was driving through Accrington town centre around August 2018 she saw Patient A and Miss Piper together.

Mr 4 told the panel that he saw Miss Piper and Patient A together at a festival in May 2019.

The panel found both Mr 4 and Ms 6 to be credible and reliable witnesses. The panel determined that it was more likely than not that Miss Piper met with Patient A between September 2018 and December 2019. As set out previously, the panel determined that there was no clinical justification for Miss Piper meeting with Patient A. Furthermore, the panel has also determined that Miss Piper was told to stay away from Patient A. Accordingly, the panel found this charge proved.

**Charge 10.a.**

10. You met with Patient A in the community in that:

- a. on or around 20 May 2019, met with Patient A at your home address;

**This charge is found proved.**

In reaching its decision the panel had regard to the evidence of Ms 6.

In her witness statement and in her oral evidence Ms 6 stated that Patient A had told her that he had spent every day with Miss Piper since he was released from prison in May 2019. The panel also noted that Ms 6 said that Patient A had been into Miss Piper's house. The panel found Ms 6 to be a credible and reliable witness. The panel determined that it was more likely than not that Miss Piper met with Patient A at her home address on or around 20 May 2019 and found this charge proved.

**Charge 10.b.**

10. You met with Patient A in the community in that:

- b. on or around 26 May 2019, you attended a music festival with Patient A;

**This charge is found proved.**

In reaching its decision the panel had regard to the evidence of Mr 4.

In his witness statement Mr 4 stated the following:

*'On 26 May 2019 I attended the Darwen Music Festival which is a local festival...*

*...we were standing in the crowd by the main stage. [Miss Piper] and Patient A walked straight past me heading towards the beer tent.'*

In his oral evidence, Mr 4 told the panel that he saw Miss Piper and Patient A at the festival. The panel found Mr 4 to be a credible and reliable witness. The panel determined that it was more likely than not that Miss Piper attended a music festival with Patient A in May 2019 and found this charge proved.

**Charge 10.c.**

10. You met with Patient A in the community in that:

c. on or around 26 May 2019, you attended a public house with Patient A;

**This charge is found proved.**

In reaching its decision the panel had regard to the evidence of Mr 4.

In his witness statement Mr 4 stated the following:

*'This is when we started walking up towards the Crown ["The pub"], this was soon after I saw them the first and second time. I was walking up towards the pub and there was not a big crowd outside, there was a few people. I was chatting to my brother and I looked up and about a hundred yards away I noticed them together outside the pub.'*

Mr 4, in his oral evidence, told the panel that he saw Miss Piper and Patient A outside the pub together. The panel found Mr 4 to be a credible and reliable witness. The panel determined that it was more likely than not that Miss Piper attended a public house with Patient A in May 2019 and found this charge proved.



**Charge 10.d.**

10. You met with Patient A in the community in that:

- d. on or around 29 August 2019, Patient A was present at your home address;

**This charge is found proved.**

In reaching this decision the panel had regard to the evidence of Ms 6.

Ms 6 stated the following in her witness statement:

*'Myself and [Mr 12] went to [Miss Piper's] house and Patient A was there on his own, [Miss Piper] was at work.'*

In her oral evidence to the panel, Ms 6 stated that she had attended Miss Piper's home address to visit Patient A on 29 August 2019. The panel found Ms 6 to be a credible and reliable witness. It determined that Ms 6 was a credible and reliable witness. The panel determined that it was more likely than not that Patient A was at Miss Piper's home address on or around 29 August 2019. The panel therefore found this charge proved.

**Charge 10.e.**

10. You met with Patient A in the community in that:

- e. on an unknown date in or around August 2019, you were with Patient A in Accrington Town Centre;

**This charge is found proved.**

In reaching this decision the panel had regard to the evidence of Ms 6.

In her evidence Ms 6 told the panel that when she met with Patient A he said that they had spent every day together since his release from prison. She also said that when she was driving through Accrington town centre around August 2018 she saw Patient A and Miss Piper together. The panel found Ms 6 to be a credible and reliable witness. The panel determined that it was more likely than not that Miss Piper was with Patient A in Accrington Town Centre in August 2019 and found this charge proved.

**Charge 10.f.**

10. You met with Patient A in the community in that:

- f. on an unknown date around 19 September 2019, you assisted Patient A in accessing a dentist and/or taking Patient A to his dentist appointment;

**This charge is found proved.**

In reaching this decision the panel had regard to a letter written by Miss Piper dated 26 September 2019.

The panel noted that Miss Piper has stated the following in her letter date 26 September 2019:

*'On 19<sup>th</sup> September [Patient A] presented himself at [PRIVATE] at the time prior arranged to access his support to the dentist to which he was told that there was no one there to support him that day... At a later date AP supported [Patient A] to gain access to a new dentist and attend his prebooked appointment.'*

The panel determined that it was more likely than not that Miss Piper assisted Patient A in accessing a dentist and/or took him to his dentist appointment. Accordingly, the panel found this charge proved.

**Charge 10.g.**

10. You met with Patient A in the community in that:

- g. on an unknown date around 5 November 2019, you attended a gym with Patient A;

**This charge is found not proved.**

In reaching this decision the panel had regard to all of the evidence before it.

The panel had regard to the letter written by Miss Piper dated 26 February 2019. The panel noted that in the letter there was reference to Patient A and the gym but it found that there was no evidence that Miss Piper attended the gym with Patient A. Accordingly, the panel found this charge not proved.

**Charge 10.h.**

10. You met with Patient A in the community in that:

- h. on one or more unknown dates between May and December 2019, met with Patient A in the community;

**This charge is found proved.**

In reaching its decision the panel had regard to its earlier findings which were made on the the evidence of Mr 4 and Mr 6.

Having already determined that Miss Piper attended a festival, a public house and went to Accrington Town Centre with Patient A the panel found this charge proved.

**Charge 10.i.**

10. You met with Patient A in the community in that:

- i. on one or more unknown dates between May and December 2019, attended Patient A's place of residence;

**This charge is found not proved.**

In reaching this decision the panel had regard to all of the evidence before it, in particular the evidence of Ms 6.

The panel found that there was no evidence that Miss Piper attended Patient A's place of residence. The panel found evidence to the contrary that Ms 6 stated that Patient A appeared to be living at Miss Piper's place of residence. The panel therefore found this charge not proved.

**Charge 10.j.**

10. You met with Patient A in the community in that:

- j. on one or more unknown dates between May and December 2019, Patient A attended your place of residence;

**This charge is found proved.**

In reaching its decision the panel had regard to its decision at charges 10.a. and 10.d. and the evidence of Ms 6.

Having already found that Miss Piper met with Patient A and that Patient A was present at Miss Piper's home address the panel found this charge proved.

**Charge 11.a.**

11. You were involved with Patient A's community support and/or care and/or treatment in that you:

- a. Attended one or more probation meetings on unknown dates;

**This charge is found proved.**

In reaching this decision the panel had regard to the evidence of Ms 8 and the letter from Miss Piper dated 26 September 2019.

In her evidence Ms 8 told the panel that Miss Piper was present at some probation meetings with Patient A. The panel had sight of a letter dated 26 September 2019 in it is also stated that Miss Piper attends probation meetings with Patient A. The panel therefore found this charge proved.

**Charge 11.b.i.**

11. You were involved with Patient A's community support and/or care and/or treatment in that you:

- b. Attended one or more meetings with Patient A's support workers:
  - i. on or around 8 July 2019;

- ii. on unknown dates between May and November 2019;

**This charge is found proved.**

In reaching this decision the panel had regard to the evidence of Ms 8.

In her evidence Ms 8 told the panel that she recalled that Miss Piper was invited to, and did attend a meeting with Patient A's support workers on 8 July 2019, following concerns about Patient A's engagement with support services. The panel therefore found this charge proved.

**Charge 11.c.**

11. You were involved with Patient A's community support and/or care and/or treatment in that you:

- c. Discussed Patient A's care and/or treatment with the:
  - i. Multi-Disciplinary Team/ Community Support team;
  - ii. Support staff at Patient A's supported accommodation facility;

**This charge is found proved.**

In reaching this decision the panel had regard to the evidence of Ms 8, an email dated 15 November 2019 and the letter written by Miss Piper dated 26 September 2019.

In her evidence Ms 8 told the panel that Miss Piper was involved in Patient A's community support care. In an email to Mr 1, Ms 8 raised concerns about Miss Piper's involvement in Patient A's care.

In her letter dated 26 September 2019 Miss Piper outlines her involvement with Patient A's care. The panel therefore found this charge proved.

### **Charge 11.d.**

- d. assisted with and/or oversaw Patient A's personal finances;

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

In reaching this decision the panel had regard to the evidence of Ms 8, an email dated 15 November 2019 and the letter written by Miss Piper dated 26 September 2019.

The panel had sight of an email from Ms 8 to Mr 1 dated 15 November 2019 in which she stated that the Multi-Disciplinary Team were of the view that Miss Piper Controlled Patient A's money. The panel found Ms 8 to be a credible and reliable witness. The panel determined that it was more likely than not that Patient A assisted with/and oversaw Patient A's personal finances and found this charge proved.

### **Charge 12**

- 12. On one or more unknown dates around 5 November 2019, you gave Patient A:
  - a. money;
  - b. clothes;

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

In reaching this decision the panel had regard to the letter written by Miss Piper dated 26 September 2019.

The panel noted that Miss Piper stated the following in her letter:

*'His relationship with AP continues (visits, letters, email, money and clothes have been sent to him by her).'*

Having regard to this letter the panel found this charge proved.

### **Charge 13**

13. You are or alternatively, you were previously engaged to Patient A;

**This charge is found proved.**

In reaching this decision the panel had regard to the evidence of Ms 8.

In her evidence Ms 8 told the panel that Miss Piper told her that she was engaged to Patient A. The panel found Ms 8 to be a credible witness. Having regard to the circumstances and Ms 8's evidence the panel determined that it was more likely than not that Miss Piper and Patient A were engaged, Accordingly, the panel found this charge proved.

### **Charge 14.a.**

14. Your relationship with Patient A:

a. was inappropriate and/or not clinically justified;

**This charge is found proved.**

In reaching this decision the panel had regard to all of the evidence before it and its previous findings.

The panel heard evidence that Miss Piper was not Patient A's case manager and that she had no clinical justification in developing and maintaining a relationship, therapeutic or otherwise. The panel therefore determined that Miss Piper's relationship with Patient A



was inappropriate and not clinically justified. Accordingly, the panel found this charge proved.

**Charge 14.b.**

14. Your relationship with Patient A:

b. crossed professional boundaries;

**This charge is found proved.**

In reaching this decision the panel had regard to all of the evidence before it, in particular the evidence of Mr 1 and its previous findings.

The panel found that Miss Piper was provided with training on appropriate behaviour when dealing with patients. The panel determined that Miss Piper's conduct as in pursuing a relationship with Patient A in the capacity of her providing care to him as a registered nurse was inappropriate and crossed professional boundaries. The panel therefore found this charge proved.

**Charge 14.c.**

14. Your relationship with Patient A:

c. was sexual;

**The panel found this charge proved.**

In reaching this decision the panel had regard to all of the evidence before it which included the evidence of Ms 6.

The panel noted that Ms 6 in her witness statement stated the following:

*'Patient A told me he is in a relationship with [Miss Piper]. He told me it was a sexual relationship but not very often.'*

The panel considered all of the evidence before it, namely that Miss Piper appeared to be living with Patient A, having an emotionally intimate relationship and engaged to marry him. The panel therefore determined that it was more likely than not that Miss Piper's relationship with Patient A was sexual. Accordingly, the panel found this charge proved.

### **Charge 15**

15. Your actions at one or more of the charges 1 to 13 above were sexually motivated in that you intended to pursue a future sexual relationship with Patient A;

**This charge is found proved.**

In reaching this decision the panel had regard to all of the evidence before it.

The panel considered that Miss Piper's actions in crossing professional boundaries, pursuing and engaging in a sexual relationship with Patient A were sexually motivated. The panel was of the view in being found alone with Patient A in his room when it was inappropriate, inappropriate physical contact and providing Patient A with additional support, Miss Piper appeared to be initiating an intimate relationship. The panel also found Miss Piper's relationship continued and evolved in the community. The panel therefore determined that it was more likely than not that Miss Piper intended on pursuing a sexual relationship with Patient A. Accordingly, the panel found this charge proved.

**[This hearing resumed on 15 June 2022]**

### **Panels observations on Notice and proceeding in Miss Piper's continued absence**

When this hearing resumed the panel noted that Miss Piper was still not in attendance. It noted that the Notice of Hearing letter that was sent to her registered email address by secure email on 11 May 2022 informed Miss Piper that the hearing would be resuming on 15 June 2022.

The panel was therefore satisfied that Miss Piper was aware of this hearing and had continued to voluntarily absent herself. The panel decided to proceed in Miss Piper's absence for the same reasons as set out previously.

### **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 Piper'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 Piper'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 Guest identified the specific, relevant standards of 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015)' (the Code) where in the NMCs submission, Miss Piper's actions amounted to misconduct.

Ms Guest invited the panel to take the view that the facts found proved amount to misconduct. She submitted that the facts found proved are serious and raise public protection concerns. Ms Guest submitted that given the seriousness and nature of the charges found proved, the public interest is engaged in this case.

### **Submissions on impairment**

Ms Guest 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 Guest submitted that Miss Piper demonstrated a lack of honesty and integrity and this type of behaviour is difficult to remediate. She submitted that due to Miss Piper's lack of

engagement, there is no evidence of insight or remediation and the risk of repetition remains. She invited the panel to find Miss Piper's practise currently impaired on the grounds of public protection and in the public interest.

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

**8.1** respect the skills, expertise and contributions of your colleagues, referring matters to them when appropriate

**8.5** work with colleagues to preserve the safety of those receiving care

**8.6** share information to identify and reduce risk

**13.4** take account of your own personal safety as well as the safety of people in your care

**17.1** take all reasonable steps to protect people who are vulnerable or at risk from harm, neglect or abuse

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

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

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

**20.5** treat people in a way that does not take advantage of their vulnerability or cause them upset or distress

**20.6** stay objective and have clear professional boundaries at all times with people in your care (including those who have been in your care in the past), their families and carers

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. 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 *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 all limbs of the 'test' engaged in this case.

In pursuing and engaging in a relationship with a vulnerable patient under her care, the panel determined that Miss Piper placed Patient A at risk of harm. The panel heard evidence that due to Patient A's learning disability and condition, it was likely that he would become dependent on her, and if the relationship broke down, this could have had a detrimental effect on his mental state and hindered his recovery. Furthermore, the panel was of the view that in conducting a relationship with Patient A whilst she was at work, she deprived other patients of her care as she was found to be spending time alone with Patient A when there was no clinical justification and other patients to tend to.

The panel was of the view that by crossing professional boundaries, pursuing and engaging in a sexual relationship with a vulnerable patient whilst working in a position of

power, Miss Piper brought the profession into disrepute. Maintaining professional boundaries, ensuring patient safety and acting with honesty and integrity are fundamental tenets of the profession. The panel determined that Miss Piper breached these fundamental tenets of the profession and acted dishonestly in attempting to conceal her relationship with Patient A.

The panel was of the view that charges relating to crossing professional boundaries and dishonesty are attitudinal in nature and inherently difficult to remediate. Furthermore, the panel found that Miss Piper's misconduct occurred over a significant period of time and continued even after she was advised that pursuing and engaging in a relationship with Patient A could have caused him harm.

Due to Miss Piper's non-engagement in these proceedings, failure to submit any submissions or reflective statements to demonstrate that she understands the gravity of her actions, the panel had no information before it about her insight or attempts to remediate her practise. The panel therefore concluded that there was risk of repetition of the conduct found proved. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel determined that a finding of impairment on public interest grounds is required. The panel was of the view that a fully informed member of the public would be shocked if a finding of impairment was not made in the circumstances of this case.



In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Miss Piper's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Miss Piper'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 Piper's name off the register. The effect of this order is that the NMC register will show that Miss Piper 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 Guest drew the panel's attention to the relevant NMC Guidance on sanctions and drew the panel's attention to the NMC guidance on '*Considering sanctions for serious cases*' (SAN-2).

Ms Guest informed the panel that in the NMC's sanction bid is that of a striking off order. She submitted that the charges found proved against Miss Piper are serious and involve sexual misconduct and dishonesty. She submitted that in the NMC's view, Miss Piper's conduct is fundamentally incompatible with her remaining on the NMC register and invited the panel to impose a striking off order.

The panel accepted the advice of the legal assessor.

## **Decision and reasons on sanction**

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

The panel took into account the following aggravating features:

- Miss Piper abused her position of trust and engaged in a sexual relationship placing Patient A, who was a vulnerable patient, at a serious risk of harm.
- Miss Piper disregarded advice and warnings from colleagues and continued to pursue, and engage in, a sexual relationship with Patient A.
- Miss Piper was dishonest about her relationship with Patient A, she employed deceit over a significant period of time in an attempt to conceal the relationship.
- Miss Piper has failed to demonstrate any insight or remorse.

The panel acknowledged that Miss Piper was a newly qualified nurse, however, the panel determined that this was not a mitigating feature and accepted the NMC submission that the conduct did not relate to a clinical issue requiring experience or training. The panel found no mitigating features in this case.

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

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection and attitudinal issues identified, an order that does not restrict Miss Piper'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 Piper's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Miss Piper's registration would be a sufficient and appropriate response. Having found that there are serious attitudinal concerns about Miss Piper, taken together with the seriousness of the misconduct and her lack of engagement and insight, the panel is of the view that there are no practical or workable conditions that could be formulated. The panel was of the view that the concerns relating to sexual and dishonest conduct could not be addressed through re-training. Furthermore, the panel concluded that the placing of conditions on Miss Piper's registration would not adequately address the seriousness of this case and would not protect the public.

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

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

The panel also had regard to the NMC guidance on '*Considering sanctions for serious cases*' (SAN-2), having particular regard to the guidance relating to cases relating to dishonesty and sexual misconduct.

The panel found that Miss Piper deliberately breached her professional duty of candour by concealing her relationship with Patient A, which she knew could have caused harm to him. The panel also found that Miss Piper's dishonesty occurred when she was at work and it was premeditated, systematic and long standing. The panel determined that Miss Piper's sexual misconduct was particularly serious, given that she abused a special position of trust to pursue and engage in a sexual relationship with a vulnerable patient. The panel has heard no evidence that Miss Piper has gained any insight into her misconduct since the charges arose. Accordingly, the panel determined that it is likely that her behaviour would be repeated and, as a consequence, she poses a risk to patients or service users.

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Miss Piper's actions is fundamentally incompatible with her remaining on the register.

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

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

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*

- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

Miss Piper's actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with her remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Miss Piper's actions were serious and to allow her to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

Balancing all of these factors and after taking into account all the evidence before it, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of Miss Piper'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 sanction would be sufficient in this case.

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

### **Interim order**

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Miss Piper's own interest until the striking-off sanction takes effect.

### **Submissions on interim order**

The panel took account of the submissions made by Ms Guest. She submitted an interim order is necessary on the grounds of public protection and it is otherwise in the public interest. Ms Guest referred to the panel's decision on impairment and its finding that Miss Piper poses a real risk of significant harm to patients. Ms Guest submitted that where a striking off order has been imposed, the public interest threshold is met. Ms Guest invited the panel to impose an interim suspension order for a period of 18 months, she submitted that if no appeal is made then the interim order will lapse and the striking off order take effect.

The panel accepted the advice of the legal assessor.

### **Decision and reasons on interim order**

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months due to cover the appeal period.

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

That concludes this determination.

This will be confirmed to Miss Piper in writing.