

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

**Substantive Hearing
Wednesday 23 November 2022**

Virtual Hearing

Name of Registrant:	Elizabeth West
NMC PIN	01A1151O
Part(s) of the register:	RN1: Registered Nurse Adult (4 January 2001)
Relevant Location:	Bracknell Forest
Type of case:	Conviction
Panel members:	John Penhale (Chair, Lay member) Claire Rashid (Registrant member) Sue Davie (Lay member)
Legal Assessor:	Monica Daley
Hearings Coordinator:	Sharmilla Nanan
Nursing and Midwifery Council:	Represented by Yvonne Ferns, Case Presenter
Mrs West:	Present and represented by Ms Tanya Robinson of Counsel, (instructed by the Royal College of Nursing (RCN))
Consensual Panel Determination:	Amended
Facts proved:	Charge 1
Fitness to practise:	Impaired
Sanction:	Striking-off order
Interim order:	Interim suspension order (18 months)

Details of charge

That you, a registered nurse were, on 8 October 2021 convicted of:

1. A failure to discharge a duty, contrary to Section 33 (1)(a) of the Health and Safety at Work Act 1974 which resulted in the death of Resident A.

And, in light of the above your fitness to practise is impaired by reason of your conviction.

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

At the outset of the hearing, Ms Robinson on your behalf, made a request that parts of this case be held in private on the basis that proper exploration of your case involves reference to your health and personal life. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Ms Ferns, on behalf of the Nursing and Midwifery Council (NMC), indicated that she supported the application of parts of the the hearing being heard in private.

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 considered that there was some public interest in this matter being held entirely in public however, the public interest did not outweigh your rights to those matters which concerned your health and private life to be held in private. The panel therefore determined to go into private session when discussing matters of your health or private life.

Consensual Panel Determination

At the outset of this hearing, Ms Ferns informed the panel that a provisional agreement of a Consensual Panel Determination (CPD) had been reached with regard to this case between you and the NMC.

The agreement, which was put before the panel, sets out your full admission to the facts alleged in the charge, and that your fitness to practise is currently impaired by reason of your conviction. It is further stated in the agreement that an appropriate sanction in this case would be striking off order.

The panel has considered the provisional CPD agreement reached by the parties.

That provisional CPD agreement reads as follows:

“Fitness to Practise Committee

Consensual panel determination (“CPD”): provisional agreement

The Nursing & Midwifery Council (“the NMC”) and Mrs Elizabeth West (“Mrs West”), PIN 01A11510 (“the Parties”) agree as follows:

1. Mrs West is aware of the CPD hearing and is attending and will be represented.

The charge

2. Mrs West admits the following charges:

That you, a registered nurse were, on 8 October 2021 convicted of:

1. A failure to discharge a duty, contrary to Section 33 (1)(a) of the Health and Safety at Work Act 1974 which resulted in the death of Resident A.

And, in light of the above your fitness to practise is impaired by reason of your conviction.

Background

3. Mrs West appears on the register of nurses, midwives and nursing associates maintained by the NMC as a Registered Nurse and has been on the NMC register since 1 February 2001. This case represents the first time Mrs West's fitness to practise has been referred to the NMC.

4. On 19 November 2015, the NMC opened a case about Mrs West's fitness to practise, following communication with the Care Quality Commission ("CQC").

5. At the time of the concerns raised, Mrs West was the Registered Home Manager of Birdsgrove Nursing Home ("the Home"). The Home cared for elderly and vulnerable residents.

The facts relating to the charges

6. Resident A was a resident at the Home for two years and had a diagnosis of dementia. Resident A was unable to care for herself and was reliant upon staff at the Home to meet her care needs and protect her from harm.

7. On 5 February 2015 at around 14:30 hours, Resident A was being bathed by care staff when her lower legs and feet were scalded with dangerously hot water. No Thermostatic Mixer Valves ("TMVs") were in use in the bath.

8. *Photographs of Resident A's burns, taken four hours after the incident, showed a vivid red colour of the burns, the swelling of her legs, and the sharp delineation of the burn lines, showing exactly where the scalding bath water reached her. Resident A received severe burns to her lower legs and feet, estimated to be 12% of her body.*

9. *On 8 February 2015, Resident A died, at the age of 93 years old, in a specialist burns unit at Chelsea and Westminster Hospital.*

10. *A post-mortem was conducted and concluded that Resident A's scalding injuries were consistent with her being dipped into hot water, with the likelihood of thermal injury being related to both temperature of the water and the length of time for which the exposure was continued. Broncho-pneumonia was the immediate mechanism for death and the pathologist was of the opinion that the major cause of the development of that broncho-pneumonia was the scald injuries to her legs.*

11. *The dangers of hot water in nursing homes are obvious and well-known. Water temperature must be high to eradicate the bacteria which causes Legionnaire's disease, to which the elderly are especially vulnerable. However, water at this temperature increases the risk of scalding for elderly residents, in light of their thin skin. In the case of residents with dementia, as Resident A had, an inability to indicate pain increases the risk.*

12. *The Health and Safety Executive has produced clear guidance which advises that TMVs should be fitted to hot water storage systems where there is a scald risk. The water heating system should be routinely inspected and tested by a competent person.*

13. Where vulnerable residents are subject to whole body immersion, widely-recognised professional bathing practice involves testing the water temperature with a thermometer. These requirements are basic and fundamental requirements for any nursing home and would be within the knowledge of the manager of a care home.

14. Mrs West was not at the Home on the 5 February 2015 as she was off sick. However, as the manager of the Home, TMVs should have been place.

15. The concerns at the Home were historic and wide ranging and included concerns around management of falls, provision of nursing care, hot water temperature management, legionella and the use of TMVs. Several authorities were concerned about the Home and took wide ranging actions, such as enforcement notices, including the CQC, the local council and the Health and Safety Executive.

16. The CQC issued several warning notices to the Home, including on 20 March 2015. However after it had investigated and identified significant and protracted concerns, Mrs West's resignation as the Registered Manager of the Home was cancelled and Mrs West was dismissed by the Home on 9 July 2015.

17. Mrs West was arrested in 2016 and pleaded guilty to a failure to discharge a duty, contrary to Section 33.1(a) of the Health and Safety at Work Act 1974.

18. Mrs West was convicted on 28 April 2020 at Inner London Crown Court and was sentenced to nine months imprisonment, suspended for 18 months under the Criminal Justice Act 2003.

19. Mrs West has accepted the charges and that her fitness to practise is impaired in the case management form dated 1 June 2022 and submissions dated 22 September 2022.

Impairment

20. The Parties agree that Mrs West's fitness to practise is currently impaired by reason of her conviction, as outlined in the charges above. Mrs West's actions and/or omissions fell significantly short of the standards expected of a registered nurse.

21. At the relevant time, Mrs West was subject to the provision of **The Code: Professional standards of practice and behaviour for nurses and midwives (2015)** ("the Code"). The Parties agree that the following provisions of the Code were engaged, and breached, in this case;

Preserve safety

13 Recognise and work within the limits of your competence

To achieve this, you must, as appropriate:

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

13.5 complete the necessary training before carrying out a new role

16 Act without delay if you believe that there is a risk to patient safety or public protection

To achieve this, you must:

16.1 raise and, if necessary, escalate any concerns you may have about patient or public safety, or the level of care people are receiving in your workplace or any other

health and care setting and use the channels available to you in line with our guidance and your local working practices

16.2 raise your concerns immediately if you are being asked to practise beyond your role, experience and training

16.3 tell someone in authority at the first reasonable opportunity if you experience problems that may prevent you working within the Code or other national standards, taking prompt action to tackle the causes of concern if you can

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

To achieve this, you must:

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

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

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

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

20.4 keep to the laws of the country in which you are practicing

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

22. *Mrs West accepts that the failings set out above are a serious departure from the professional standards and behaviour expected of a registered nurse. Mrs West acknowledges that her conduct presented a risk of harm to the patients she was tasked with caring for and, in the case of Resident A, there is evidence of actual patient harm.*

23. *The conduct was serious in that it relates failures in respect of basic, but important, aspects of nursing which should have at all times been undertaken effectively and appropriately. The failure to undertake such tasks appropriately have the potential for serious, unwarranted, patient harm.*

24. *Although Mrs West was off sick at the time that Resident A was placed in the bath of scalding water, Mrs West was the manager at the salient time and had failed to action outstanding tasks including dealing with the TMV. She failed to ensure that there were appropriate systems in place and failed to comply with prior enforcement action taken, in the form of warning notices.*

25. *Problems with regulating the hot water temperature at the Home had subsisted for many years before the incident with Resident A and prior to Mrs West's commencement as Home Manager. Nevertheless, Mrs West had the responsibility for the health and safety at the Home and as a trained nurse, Mrs West would have been well aware of the risk of serious injury from scalding to elderly residents in care homes.*

26. *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 and therefore it is imperative that nurses make sure that their conduct at all times justifies both their patients' and the public's trust in them and in their profession.*

27. A general approach to what might lead to a finding of impairment was provided by Dame Janet Smith in her Fifth Shipman Report. A summary is set out in the case of **CHRE v Nursing and Midwifery Council & Grant [2011] EWHC 927** at paragraph 76 in the following terms:

“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:

i. 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

ii. has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or

iii. 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

iv. ...

28. The Parties agree that limbs i, ii and iii above can be answered in the affirmative in this case. Dealing with each one in turn:

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

29. The conduct leading to the conviction referred to in the charges had the potential to cause harm to residents. In relation to Resident A, there is evidence of actual harm being sustained. The fact that Mrs West accepted a conviction for failure to discharge a duty, in relation to Resident A also falls squarely within this limb.

Has in the past brought and/or is liable in the future to bring the medical profession into disrepute

30. Registered professionals occupy a position of trust in society. The public, quite rightly, expects nurses to provide safe and effective care, and conduct themselves in ways that promotes trust and confidence. Mrs West's actions and omissions had the potential to cause patients and members of the public to be concerned about their safety and feel unnecessarily anxious about their healthcare treatment. This, the Parties agree, could result in patients, and members of the public, being deterred from seeking medical assistance when they should. Therefore, it is agreed that Ms West's conduct has brought the profession into disrepute and that she has breached the trust placed in her.

Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession

31. The Code divides its guidance for nurses in to four categories which can be considered as representative of the fundamental principles of nursing care. These are:

- a) Prioritise people;*
- b) Practice effectively;*
- c) Preserve safety and*
- d) Promote professionalism and trust*

32. Providing a high standard of care is also a fundamental tenet of the nursing profession. Further the provisions of the Code, as referred to above, constitute tenets of the nursing profession. By failing to provide a high standard of care at all times and comply with the core principles and specific

paragraphs of the Code as set out above, Mrs West breached fundamental tenets of the profession.

33. The panel may also find it useful to consider the comments of **Cox J in Grant at paragraph 101**:

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

Remediation, reflection, training, insight, remorse

34. In considering the question of whether Mrs West’s fitness to practise is currently impaired, the Parties have considered the guidance in the case of **Cohen v GMC [2007] EWHC 581 (Admin)**, in which the court set out three matters which it described as being ‘highly relevant’ to the determination of the question of current impairment:

- a. Whether the conduct that led to the charge(s) is easily remediable;
- b. Whether it has been remedied;
- c. Whether it is highly unlikely to be repeated.

35. The NMC’s guidance on **Criminal Convictions and Cautions (FTP-2c)** states:

“If the criminal offending took place in the nurse, midwife or nursing associate’s private life, and there’s no clear risk to patients or members of the public, then it is unlikely that we’ll need to take regulatory action to uphold confidence in nurses, midwives or nursing associates, or professional standards. We’d only need to do that if the nurse, midwife or nursing associate was given a custodial sentence (this includes suspended sentences) ...”

36. Mrs West was sentenced to a custodial sentence, suspended for 18 months. In accordance with Guidance FTP-2c, regulatory action to uphold confidence in nurses and the profession is required.

*37. Further guidance on **Serious concerns which are more difficult to put right (FTP-3a)**, suggests that a small number of concerns are so serious that it may be less easy for the nurse, midwife or nursing associate to put right the conduct, the problems in their practice, or the aspect of their attitude which led to the incidents happening. The nature and extent of the concerns are indicative of an underlying attitudinal concern which is difficult to remediate.*

*38. The Parties have also considered the NMC guidance on **Insight and strengthened practice (FTP-13)** to determine if these alleged failings have been addressed. This states, ‘Before considering the nurse, midwife or nursing associate’s insight and any steps they have taken to strengthen their practice, decision-makers should consider the context in which the incident occurred. This is because it may help them to understand what the concerns are with the nurse, midwife or nursing associate’s fitness to practise and what sort of steps may be needed to address those concerns’.*

39. Mrs West has displayed some insight. This is shown by the very fact that Mrs West has admitted that her fitness to practise is impaired and accepted all of the charges. Mrs West also made full admissions to the concerns raised, in submissions provided on 22 September 2022.

40. Mrs West has stated that there were contextual factors that existed at the time and accepts that she made a number of mistakes when carrying out her role at the Home.

41. There is now shown, **Appendix 1**, a statement provided by Mrs West. Mrs West states:

“I fully appreciate that incidents like this will have a detrimental effect on public confidence in the nursing profession and people may worry about putting their loved ones at risk when looked after by others. My conduct may lead individuals to distrust those within the profession, if they became aware that a patient came to harm. Similarly it does not provide a good example of care for other staff within a home which may adversely affect their ability to reach their full potential.”

42. There is also shown, **Appendix 2**, the finalised Disclosure Barring Service submissions.

43. In relation to whether the conduct is likely to be repeated, it is relevant that concerns appear to have arisen as a result of ~~deep-seated~~ attitudinal concerns **in respect of Mrs West’s inability to stand up to her manager and to effectively escalate concerns if they were not appropriately addressed by her manager**. Also relevant is the nature and extent of the concerns and the fact that the same were not isolated, as the risk of scalding was well known to the Home and Mrs West, yet was not addressed for a

protracted period of time and culminated with the events of 5 February 2015 involving Patient A. The incident could have been wholly avoided had Mrs West acted on her health and safety responsibilities that were inherent to her role as a registered professional and as the Home manager. Should such conduct/concerns be repeated, there is a risk of further serious, unwarranted, patient harm.

Public protection impairment

44. For the reasons referred to above, it is agreed that a finding of impairment on public protection grounds is necessary.

Public interest impairment

45. A finding of impairment is necessary on public interest grounds.

*46. In **CHRE v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927(Admin)** Cox J commented as follows:*

“71. It is essential, when deciding whether fitness to practise is impaired, not to lose sight of the fundamental considerations... namely, the need to protect the public and the need to declare and uphold proper standards of conduct and behaviour so as to maintain public confidence in the profession ..”

47. The public would be concerned about the serious failings in this case. The concerns are of such a serious nature the need to protect the wider public interest calls for a finding of impairment to uphold the standards of the profession, maintain confidence in the profession and the NMC as its regulator. Without a finding of impairment, public confidence in the profession and the NMC would be undermined.

48. As a consequence, Mrs West unfortunately acknowledges that despite having shown some insight and remorse into her actions, her fitness to practise is impaired on public protection and public interest grounds.

49. The Parties agree that Mrs West's fitness to practice is impaired on public protection and public interest grounds.

Sanction

50. In accordance with **Article 3(4) of the Nursing and Midwifery Order** the overarching objective of the NMC is the protection of the public.

51. Article 3(4A) of The Nursing and Midwifery Order 2001 states:-

The pursuit by the Council of its over-arching objective involves the pursuit of the following objectives-

(a) to protect, promote and maintain the health, safety and well-being of the public;

(b) to promote and maintain public confidence in the professions regulated under this Order; and

(c) to promote and maintain proper professional standards and conduct for members of those professions.

52. Whilst sanction is a matter for the panel's independent professional judgement, the Parties agree that the appropriate sanction in this case is a striking-off order. A striking-off order is the most appropriate and proportionate sanction which properly reflects the seriousness of the conviction.

53. In reaching this agreement, the Parties considered the **NMC's Sanctions Guidance**, bearing in mind that it provides guidance and not firm rules. The panel will be aware that the purpose of sanctions is not to be punitive but to protect the public and public interest. The panel should take into account the principle of proportionality and it is submitted that the proposed sanction is a proportionate one that balances the risk to the public and the public interest with Ms West's interests.

54. The aggravating features in this case have been identified as follows:

- Conduct which put patients at risk of suffering harm and did ~~cause harm~~ **result in the death of Resident A**

55. The mitigating features of this case have been identified as follows:

- Has admitted to the allegations at the earliest opportunity, has shown ~~some~~ **good** insight and expressed **significant** remorse

56. With regards to the NMC's guidance, the following aspects have led the Parties to conclude that a striking-off order is appropriate and proportionate. Taking the available sanctions in ascending order starting with the least restrictive:

a) **Taking no action or a caution order** - The NMC's guidance (SAN-3a and SAN- 2b) states that it will be rare to take no action where there is a finding of current impairment and this is not one of those rare cases. The seriousness of the conviction means that taking no action would not be appropriate. A caution order would also not be in the public interest nor mark the seriousness and would be insufficient to maintain high standards within the profession or the trust the public place in the profession.

*b) **Conditions of Practice Order** - The NMC's guidance (SAN-3c) states that a conditions of practice order may be appropriate when some or all of the following factors are apparent (this list is not exhaustive):*

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

The concerns behind the conviction, indicate harmful deep-seated personality or attitudinal problems. Furthermore, it would not be possible to formulate workable conditions to meet the risks in this case. A conditions of practice order would not reflect the seriousness of the concerns raised or maintain public confidence.

*c) **Suspension Order** - Imposing a suspension order would only temporarily protect the public. It cannot be said that this was a single instance or that there is no evidence of harmful deep-*

seated personality or attitudinal problems. This sanction would not reflect the seriousness of the conduct and therefore public confidence in the profession would not be maintained. According to the NMC guidance (SAN-d), a suspension order would not be appropriate in this case as the misconduct is fundamentally incompatible with Mrs West continuing to be a registered professional. The overarching objective of public protection would not be satisfied by a suspension order and it would not be in the public interest to impose a suspension order in this case. The confidence in the NMC as a regulator would be undermined if Mrs West was allowed to practice once the suspension order comes to an end.

Striking-off Order

57. A striking-off order is the most appropriate sanction in this case. The regulatory concerns raise fundamental questions about the Registrant's professionalism, public confidence in the profession and in the NMC cannot be maintained if Mrs West is not removed from the Register, this order is the only sanction which will be sufficient to maintain public confidence in the profession and professional standards.

*58. The NMC's guidance entitled **Criminal convictions and cautions (FTP-2c)** states 'if the criminal offending was directly linked to the nurse, midwife or nursing associate's professional practice, it's very likely this would be serious enough to affect their fitness to practise'.*

*59. The Parties also considered the NMC's guidance on **Causation (INV-4)**, which states:*

“This will very often involve deciding whether or not a nurse, midwife, nursing associate or their team has put patients at risk of harm in the past.

However, focusing on what harm resulted from a past incident won't help us understand how likely it is that the nurse, midwife or nursing associate may repeat the conduct or failings that first caused the concern.

For this reason, we'll only focus on whether the nurse, midwife or nursing associate's clinical failings caused the death or serious injury of a patient if it's clear that the nurse, midwife or nursing associate deliberately chose to take an unreasonable risk with the safety of patients or service users in their care.

Before gathering evidence about whether or not the clinical failing did cause or contribute to death or serious harm, there would need to be evidence that the nurse, midwife or nursing associate:

Was aware that something they were about to do could put the safety and wellbeing of others at risk, was aware that it was unreasonable to take the risk, and chose to take the risk.”

60. The Judge said that ‘The dangers of hot water in nursing homes are obvious and well-known’ and that Mrs West ‘closed her eyes to those risks’.

61. Therefore, the Parties agree that the NMC's causation guidance is engaged in this case. Mrs West accepts that she closed her eyes to the risks to the safety and wellbeing of the residents caused by the lack of TMV's in the Home, which resulted in the death of Resident A.”

Here ends the provisional CPD agreement between the NMC and yourself. The provisional CPD agreement was signed by you and the NMC on 22 November 2022.

Decision and reasons on the CPD

The panel decided to amend the CPD but not with regard to the decision on impairment and sanction.

Ms Ferns referred the panel to the 'NMC Sanctions Guidance' (SG) and to the 'NMC's guidance on Consensual Panel Determinations'. She reminded the panel that they could accept, amend or outright reject the provisional CPD agreement reached between the NMC and yourself. Further, the panel should consider whether the provisional CPD agreement would be in the public interest. This means that the outcome must ensure an appropriate level of public protection, maintain public confidence in the professions and the regulatory body, and declare and uphold proper standards of conduct and behaviour.

Ms Robinson referred the panel to the relevant parts of the CPD bundle. She highlighted the insight demonstrated in your reflective statement and DBS statement and referred the panel to the positive character references provided on your behalf.

The panel heard and accepted the legal assessor's advice.

The panel took into consideration the Codes set out in the CPD at paragraph 21. It was of the view that code 20.2 did not apply in the circumstances of this case and determined that codes, 13.3, 13.5, 16.1, 16.2,16.3, and 19.1 were applicable in the circumstances of your conviction.

The panel next considered paragraph 43 of the CPD and were of the view that your actions in this conviction had not amounted a 'deep-seated' attitudinal concern but that in

respect of your inability to stand up to your manager and to effectively escalate concerns if they were not appropriately addressed by your manager.

The panel considered paragraphs 54 and 55 which outlined the aggravating and mitigating features of the case. It was of the view that the aggravating features did not highlight that your conduct resulted in the death of Resident A. The panel was also of the view that the mitigating features did not sufficiently highlight the level of your insight and remorse.

The panel acknowledged that the NMC and your legal representative, on your behalf, were content with these amendments to the CPD.

The panel noted that you admitted the facts of the charges. Accordingly, the panel was satisfied that the charges are found proved by way of your admissions, as set out in the signed provisional CPD agreement.

Decision and reasons on impairment

The panel then went on to consider whether your fitness to practise is currently impaired. Whilst acknowledging the agreement between the NMC and yourself, the panel has exercised its own independent judgement in reaching its decision on impairment.

In respect of your conviction, the panel acknowledged that you were convicted on 28 April 2020 at Inner London Crown Court and sentenced to nine months imprisonment, suspended for 18 months under the Criminal Justice Act 2003.

In this respect, the panel endorsed paragraphs 6 to 18 of the provisional CPD agreement in respect of your conviction.

The panel then considered whether your fitness to practise is currently impaired by reason of conviction. The panel determined that your fitness to practise is currently impaired as you have not worked as a nurse for seven years and the panel has no evidence before it

that you have strengthened your practise and would now appropriately stand up to your manager and effectively escalate your concerns regarding the safety of residents under your care. The panel was of the view that there was a risk of repetition, and it was not satisfied that, if you found yourself in similar circumstances, you would act differently.

The panel was of the view that you may have naively started your role as a care home manager however you became aware of the role and responsibilities. This prompted you to offer your resignation which you withdrew. You withdrew your resignation without ensuring that you had the support and skills necessary to secure the safety of your residents. This demonstrated a weakness in your character.

In this respect the panel endorsed paragraphs 20 to 49 of the provisional CPD agreement.

Decision and reasons on sanction

Having found your 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:

- Conduct which put patients at risk of suffering harm and did result in the death of Resident A.

The panel also took into account the following mitigating features:

- Has admitted to the allegations at the earliest opportunity, has shown good insight and expressed significant remorse.

The panel considered the sanctions in ascending order.

The panel accepted the CPD agreement at paragraphs 56 to paragraphs 61. The panel determined that *“A striking-off order is the most appropriate sanction in this case. The regulatory concerns raise fundamental questions about the Registrant’s professionalism, public confidence in the profession and in the NMC cannot be maintained if Mrs West is not removed from the Register, this order is the only sanction which will be sufficient to maintain public confidence in the profession and professional standards.”*

This will be confirmed to you in writing.

Decision and reasons on 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 your own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

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 considered whether an interim conditions of practice order was appropriate however this was incompatible with its findings. The panel agreed with the CPD and determined to impose an interim suspension order for a period of 18 months to cover the period of appeal.

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

That concludes this determination.