

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

**Substantive Hearing  
Monday 25 September – Friday 29 September 2023,  
Monday 18 December – Tuesday 19 December 2023**

Virtual Hearing

**Name of Registrant:** Chelsie Neale

**NMC PIN** 14G0822E

**Part(s) of the register:** Sub part 1  
RNA: Adult nurse, level 1  
August 2014

**Relevant Location:** Cambridgeshire

**Type of case:** Misconduct

**Panel members:** Sophie Lomas (Chair, lay member)  
Marian Robertson (Registrant member)  
Frances McGurgan (Lay member)

**Legal Assessor:** Fiona Moore

**Hearings Coordinator:** Jessie Miller

**Nursing and Midwifery Council:** Represented by Sam Smart (25 -29 September 2023) and James Edenborough (18 – 19 December 2023), Case Presenters

**Miss Neale:** Present and unrepresented

**Facts proved:** Charges 1, 2

**Facts not proved:** None

**Fitness to practise:** Impaired

**Sanction:** Suspension order (12 months)

**Interim order:**

Interim suspension order (18 months)

## **Details of charge**

That you, a registered nurse

- 1) Between 3 September 2019 and 6 December 2019, whilst on sick leave and/or receiving sick pay from Cambridgeshire Community Services Trust, worked at Gurney GP Surgery on a permanent contract of 36 hours per week.
- 2) Your actions at 1) were dishonest in that you knew you were not entitled to work for another employer whilst on sick leave and/or receiving sick pay from the Trust.

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

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

At the outset of the hearing, Mr Smart, on behalf of the Nursing and Midwifery Council (NMC), made an application that this case be held partly in private on the basis that proper exploration of your case involves reference [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

You indicated that you supported the application to the extent that any reference [PRIVATE] should be 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.

Having heard that there will be reference [PRIVATE], the panel determined to hold these parts of the hearing in private in order to protect your privacy.

## **Background**

The charges arose whilst you were employed as a Health Visitor by Cambridgeshire Community Services Trust (the Trust). You joined the Trust on 12 August 2016, and were in this post until you resigned.

You commenced sickness absence on 29 May 2019. The reason for this [PRIVATE].

On 4 November 2019, Colleague 1, Professional Lead, Breckland Locality, accompanied her mother to an appointment at the Gurney Surgery, Norfolk (the Surgery). You were the practice nurse providing the care at this appointment. During a conversation between yourself and Colleague 1's mother, you allegedly informed them that you were working '*on the bank*'.

On 6 November 2019, Colleague 1 informed Colleague 2, Head of Breckland and West Locality, that she had witnessed you working at the Surgery. The Trust began an investigation in January 2020. Following this, an NMC referral was made.

It is alleged that you, as a Health Visitor, undertook work for another employer whilst on sick leave absence from the Trust. That work being as a Registered Nurse at the Surgery between 3 September 2019 and 6 December 2019.

## **Decision and reasons on facts**

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Smart and by you.

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 witness called on behalf of the NMC:

- Witness 1: Family Nurse Supervisor and a member of the senior leadership team at the Trust who conducted the investigation and provided an investigation report in evidence.

The panel also heard evidence from you under affirmation.

Before making any findings on the facts, the panel accepted the advice of the legal assessor, which included reference to the legal test for dishonesty as per *Ivey v Genting Casinos (UK) Ltd [2017] UKSC 67*. It considered the witness and documentary evidence provided by both you, and the NMC.

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

### **Charge 1**

*“That you, a registered nurse;*

*Between 3 September 2019 and 6 December 2019, whilst on sick leave and/or receiving sick pay from Cambridgeshire Community Services Trust, worked at Gurney GP Surgery on a permanent contract of 36 hours per week.”*

**This charge is found proved.**

In reaching this decision, the panel took into account evidence submitted, including the Trust sickness records, payroll information on sickness payments made to you over the relevant period and a letter dated 17 March 2020 confirming employment at the Surgery. The panel also considered an events timeline submitted as part of the Trust investigation and emails between you and the Trust.

Mr Smart drew the panels attention to your contract of employment with the Trust, that you were on sick leave from 29 May 2019 and the schedule of payments made to you over the relevant period. He referred the panel to an email from the surgery confirming your employment there from 3 September 2019, and he also referred the panel to the Trust disciplinary policy which states '*any deliberate attempt to defraud the Trust, the NHS in general...this includes...claiming sick pay whilst not sick and working somewhere else.*' Mr Smart submitted that based on these documents, you were clearly working whilst on sick leave and receiving sick pay.

Your position was that you had resigned from the Trust and were therefore no longer on sick leave at the relevant time. You accepted that at no point had the Trust directly acknowledged your resignation, and nor had you referenced it in terms, however you pointed out that the Trust had requested the return of your laptop on 24 July 2019 as supporting your position that you had resigned from post. Whilst you accepted that payments from the Trust went into your bank account in October, November and December 2019, [PRIVATE] that you expected some payments for accrued annual leave.

The panel took into consideration the evidence to show that you commenced a permanent contract of 36 hours per week with the Surgery from 3 September 2019. The panel had sight of an email between yourself and the Trust dated 19 September 2019, in which you directly reference sick certificates, but do not directly reference a resignation letter.

The panel had regard to an email dated 21 November 2019 in which you reference having sent a special delivery letter with another attached sick certificate. Also an email dated 22 November 2019 from you to the Trust referencing that you had called your GP practice to

ask for a reissue of up-to-date certificates. The panel had regard of the lack of direct reference to your resignation in these emails. The panel noted that the first reference to your resignation in any correspondence produced in evidence between you and the Trust was not until 17 December 2019. The panel had no sight of the resignation letters you state that you sent to your employer on 20 July 2019 and end of July 2019, nor of the letter that you hand delivered. There was no evidence produced of receipts for the recorded signed delivery, nor tracking information confirming delivery. The panel had sight of the photos you submitted showing that you had hand delivered a letter on 17 August 2019, however had no sight of the contents of this letter. The panel also had sight of the timeline, accepted by you, which shows a contact made on 3 September 2019 between you and the Trust in which you confirm that you were not fit to return to work. This is the same date that you commenced employment with the Surgery.

The panel notes that despite believing that you were no longer employed by the Trust, you continued to provide sick certificates and remained in contact with them regarding this. The panel observed that this continued to be the case in October and November 2019, which was after the time when you expected your notice period to have ended. Furthermore, over this period, you received three (3) monthly payments from the Trust, representing sick pay. The sums paid into your account were not insignificant.

Based on the evidence before it, including your submissions in which you acknowledge that you were working for the Surgery during this time, the panel is of the view that you worked at the Surgery whilst on sick leave and in receipt of sick leave payments from the Trust. The panel therefore finds this charge proved.

## **Charge 2**

*“Your actions at 1) were dishonest in that you knew you were not entitled to work for another employer whilst on sick leave and/or receiving sick pay from the Trust.”*

**This charge is found proved.**

In reaching this decision, the panel took into account correspondence from the Trust dated 4 November 2019 regarding the organisation of [PRIVATE] letter dated 21 November 2019 regarding sick leave, notes from your GP dated 10 September 2019 [PRIVATE] the events timeline from the Trust investigation and your oral evidence.

Mr Smart referred the panel to the appropriate legal test for dishonesty, as set out in the case of *Ivey v Genting Casinos (UK) Ltd [2017] UKSC 67*;

*‘When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual’s knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate that what he has done is, by those standards, dishonest.’*

He then referred the panel to the documentary evidence before it and submitted that based on this evidence, your belief that you had resigned from the Trust was not a genuinely held belief. He further submitted that you had never raised these issues during your communications with the Trust, or the NMC and suggested that you were trying to justify your actions retrospectively.

[PRIVATE] and stated that in hindsight, you recognised that your communication could have been better [PRIVATE]. You maintained that you did not act dishonestly because you genuinely believed that you had resigned from the Trust and were therefore free to take up employment elsewhere.



The panel reminded itself of the evidence that there was no express mention of resignation in any of the correspondence between yourself and the Trust between July and November 2019.

The panel noted an entry on the timeline of events, dated 24 July 2019, which made reference to you informing Colleague 3 that you were providing a GP sick certificate until 6 August 2019 and [PRIVATE]. In the panels view, this would have been an ideal opportunity to discuss confirmation of receipt of your letter of resignation, dated 20 July 2019, and notice requirements.

The panel further noted the timeline which referenced an email you sent to the Trust on 3 September 2019 stating that [PRIVATE], which was contradicted by the fact that this was the date of the commencement of employment with the Surgery.

The panel considered two letters sent to you on 4 November 2019 and 21 November 2019 which both confirmed your continued employment by the Trust and your receipt of sick leave payments. The letter dated 21 November 2019 also gave a deadline of 25 November 2019 to submit your most recent sick certificates, otherwise your absence would be considered unauthorised and you would not receive further payments. You responded to this letter by providing a sick certificate on 26 November 2019. The panel observed that this sick certificate covered a period well beyond any notice period that would have followed on from your resignation.

The panel recognised that the request for the return of the laptop may have initially reinforced your belief that you had resigned, but there must have come a point in time where you realised that the resignation had not been received. Particularly when requests for sick certificates and discussions about a return to work persisted well after you believed that your notice period had been served. It follows that whilst the belief may have been genuinely held in July 2019, by September 2019, there was no longer, in the panel's view, a genuinely held belief that your resignation had been received and accepted.

The panel acknowledges [PRIVATE]. In the panels view, [PRIVATE] it does not exculpate your dishonesty in submitting sick certificates and receiving sick pay during a period when you had commenced alternative employment.

The panel is of the view that working in the Surgery in a paid capacity, whilst on sick leave and receiving sick pay from the Trust, would be considered dishonest by the objective standards of ordinary and decent people.

This charge has been found proved.

### **Fitness to practise**

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether your fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, your fitness to practise is currently impaired as a result of that misconduct.

### **Submissions on misconduct and impairment**

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.*'

Mr Smart invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015)' (the Code) in making its decision.

Mr Smart submitted that a fellow practitioner or '*ordinary, intelligent member of the public*' may find your conduct in relation to these charges concerning, some even considering it as '*fraud*'. He identified the specific, relevant standards where your actions amounted to misconduct and noted that the circumstances of this case demonstrate a serious departure from the expected standards of a registered nurse.

Mr Smart moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin), *Fopma v GMC* [2018] EWHC 714 (Admin), *Sowida v GMC* EWHC 3466 (Admin) and *Cohen v. General Medical Council* [2008] EWHC 581 (Admin).

Mr Smart stated dishonesty and bringing the profession into disrepute are the key characteristics in this case. He further stated that the representations you have made so far do nothing to assist any finding of insight, but rather seek to dispel and dismiss the allegations against you whilst you fail to recognise any wrongdoing. Mr Smart noted that there is no reflective statement or apology regarding the charges made against you.

Mr Smart concluded his submissions by stating that there remains a chance of repetition in this case, and as such, your fitness to practice is impaired.

You stated that making detailed submissions in relation to misconduct and impairment is obviously a very difficult task due to your defence of the allegations at an earlier stage. You stated that although the allegations are serious, they occurred over four years ago, it was an isolated incident and you had no history of dishonesty before or after the allegations. You went on to state that the [PRIVATE] should also be taken into account.

You stated that fitness to practice is about keeping people safe, rather than punishing nurses for past misconduct or mistakes. You also noted that in this particular circumstance, there was no risk to patient safety.

You stated that the contextual factors that were present at the time of the allegations no longer exist, or have been appropriately managed. You submitted that you do not consider yourself to be currently impaired and highlighted that it was a very specific chain of events that lead to the circumstances in question.

You concluded your submissions by stating that you have been present throughout the investigations and have done your best to fulfil any of the requests made of you. You stated that you hope that you have, in some way, been able to show that you have learnt from the concerns, despite your defence against them. You stated that you did not issue an apology to the Trust or NMC as the process was ongoing. You stated that you *are* sorry for what happened and that the NMC investigation has been difficult. You stated that you were not trying to justify your actions, [PRIVATE] and may serve as mitigation for the issues of misconduct and impairment.

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

## **Decision and reasons on misconduct and impairment**

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

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

***'Promote professionalism and trust***

*You uphold the reputation of your profession at all times. You should display a personal commitment to the standards of practice and behaviour set out in the Code. You should be a model of integrity and leadership for others to aspire to. This should lead to trust and confidence in the profession from patients, people receiving care, other health and care professionals and the public.*

***20 Uphold the reputation of your profession at all times***

*To achieve this, you must:*

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

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

***21 Uphold your position as a registered nurse, midwife or nursing associate***

*To achieve this, you must:*

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. The panel took into account the NMC Guidance, *FTP-3 (How we determine seriousness)* and *FTP-3a (Serious concerns which are more difficult to put right)*. The panel was of the view that in these circumstances, given the seriousness of the charges found proved that relate to dishonesty, your actions did fall seriously short of the conduct and standards expected of a nurse. It was also of the view that this amounted to misconduct.

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

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

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

*'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'*

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

*‘Do our findings of fact in respect of the doctor’s misconduct, deficient professional performance, adverse health, conviction, caution or determination show that her fitness to practise is impaired in the sense that she:*

- a) ...*
- 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 considered that limbs b, c and d of Dame Janet Smith’s test set out in the Fifth Report from Shipman were engaged by your past actions. The panel noted that there were no concerns with your clinical practice and the charges found proved relate solely to your dishonesty in that you were receiving sick payments from the Trust whilst working at the Surgery. The panel finds that your misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

The panel went on to consider whether you remained liable to bring the profession into disrepute and breach fundamental tenets of the profession in the future. The panel applied the test set out in the case of *Cohen* and assessed your levels of insight and remediation. Regarding insight, the panel considered that although this case is very serious in nature, and dishonesty is difficult to remediate, in the specific context of this case, there was not dishonesty from the outset [PRIVATE].

The panel carefully considered the level of insight demonstrated throughout your oral evidence and submissions. The panel was of the view that you have shown good insight during the course of this hearing. You stated that you regret the way this has played out and that you *'certainly do feel remorse for the situation'* and *'...it's something that I never, ever want to happen again and never would happen again, in my opinion.'* You recognised that at the time your communication and organisational skills were lacking and that [PRIVATE].

The panel noted that since these events, [PRIVATE].

The panel noted that the likelihood of these exact circumstances occurring again is low. It was of the view that given the insight you have demonstrated, particularly in relation to the circumstances surrounding the event in question, it is unlikely that this misconduct would be repeated.

The panel was satisfied that due to the specific context of this case, the misconduct is capable of being addressed. Therefore, the panel carefully considered the evidence before it in determining whether or not you have taken steps to remediate these circumstances. It took into account your submissions in which you highlighted the steps you have identified in order to prevent this from occurring again, your genuinely expressed remorse and an understanding of how you would act differently in future, particularly in regards to communication.

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

The panel determined that a finding of impairment on public interest grounds is required because, notwithstanding the circumstances as outlined by you, the fact still remains that



this is a serious case in relation to dishonesty. As such, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case. It therefore finds your fitness to practise impaired on the grounds of public interest.

**The hearing resumed Monday, 18 December 2023.**

### **Additional decision and reasons on application for hearing to be held in private**

On day six of the hearing, you made a further application that this case be retrospectively heard entirely in private as it involves reference [PRIVATE], pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practice) Rules 2004'. You submitted to the panel that due to not being legally represented, you were unaware that you were able to make an application for the whole of the hearing to be heard in private, rather than just parts. You stated that upon reflection, since your hearing commenced in September 2023, you feel that holding the hearing partly in private may misrepresent important elements of your case that go to the heart of the contextual factors surrounding the charges. On this basis, you requested that a retrospective Rule 19 decision be made to hear the entire hearing in private to protect your privacy.

Mr Edenborough submitted that he has no objection to the submissions in relation to sanction being heard in private, to protect your privacy. In regards to your retrospective application, Mr Edenborough reminded the panel that the NMC will review the transcript before it is finalised to ensure matters relating to health and privacy are marked as private, in line with the panels earlier decision.

The legal assessor reminded the panel of the advice given at the first application, in 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. She

confirmed that any final draft would be edited appropriately in line with the panels earlier decision on privacy.

The panel took into account both positions in regards to this application and determined that submissions in relation to sanction will be heard in private in order to protect your privacy. In relation to a retrospective decision, the panel determined that appropriate redaction by the NMC would take place before publishing public reasons at the conclusion of this case.

## **Sanction**

The panel has considered this case very carefully and has decided to make a suspension order for a period of 12 months. The effect of this order is that the NMC register will show that your registration has been suspended.

## **Submissions on sanction**

Mr Edenborough reiterated the NMC's sanction bid of imposing a striking off order. He noted that whilst there may be mitigating factors relevant to both charges, it does not exculpate the dishonesty which the panel found proved at the facts stage. Mr Edenborough submitted that at the core of the decision, the panel must balance its conclusion between the seriousness of the somewhat sustained dishonesty leading to your personal financial gain, and the particular contextual factors that you have highlighted throughout the hearing.

Mr Edenborough drew the panels attention to the NMC Guidance for '*Considering sanctions for serious cases*', and in particular the section regarding dishonesty. He highlighted that not all dishonesty is equally serious, but generally one of the forms of dishonesty which are most likely to call into question whether a nurse should remain on the register involves personal financial gain relating to a breach of trust. He submitted that this was a factor present in this case.

Mr Edenborough concluded by noting that whilst it is accepted [PRIVATE], your actions displayed a stark example of dishonesty.

The panel bore in mind your submissions that highlighted that there are no concerns that call into question your general or clinical practice. You submitted that you do not consider that these actions should be considered as personal financial gain as this act was not planned or deliberate, but rather as the result of the surrounding context of the time, [PRIVATE].

You stated that you have been registered with the NMC since 2014, and in that time have had no concerns raised before or after this incident. You stated that you have shown remorse and insight and have expressed that these actions will never be repeated again, as you have addressed the underlying issues that resulted in you being overwhelmed.

You submitted that you have shown a good understanding of how [PRIVATE], and due to this, do not believe there is a chance of these actions being repeated.

[PRIVATE]

You concluded by listing each sanction option available, and reminded the panel that the sanction does not need to go beyond protecting the public and public interest, whilst being the least restrictive and appropriate order possible.

The panel accepted the advice of the legal assessor.

### **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 NMC guidance on sanctions, namely; SAN-1 (Factors to consider before deciding on sanctions), SAN-2 (Considering sanctions for serious cases) and SAN-3 (Available sanction orders). The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel found this case to be a very fact-specific set of circumstances and it had the benefit of hearing extensively from you over the course of several days through your oral evidence and submissions. The panel was of the view that your actions were not fraudulent from the outset, however through missed opportunities and omissions in which you could have corrected the errors, your conduct became dishonest. The panel did however note [PRIVATE]. It further noted that there was no evidence of a deep-seated attitudinal issue.

The panel took into account the following aggravating features:

- Personal financial gain

The panel also took into account the following mitigating features:

- [PRIVATE]
- [PRIVATE]
- Good level of insight
- Good level of remorse
- [PRIVATE]
- Acceptance of the need to improve your communication skills in the workplace
- Your perception of limited support within the workplace

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 interest issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The Sanction Guidance (SG) states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, which states that conditions of practice may be appropriate where the following is present:

- ...
- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining*
- ...
- *Conditions can be created that can be monitored and assessed*

The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The misconduct identified in this case was not something that can be addressed through retraining or supervision.

Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case and would not protect the public interest.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that a 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 considered this to be a single episode of misconduct, albeit over several months. The panel found no evidence of deep-seated attitudinal problems, there has been no repetition since the incident, and the panel has determined that you have insight and do not pose a risk of repeating this behaviour.

The panel was satisfied that in this case, due to the very specific factual context, the misconduct was not fundamentally incompatible with remaining on the register.

It did go on to consider whether a striking-off order would be proportionate. In relation to the guidance, it noted the following questions for consideration:

- Do the regulatory concerns about the nurse, midwife or nursing associate raise fundamental questions about their professionalism?
- Can public confidence in nurses, midwives and nursing associates be maintained if the nurse, midwife or nursing associate 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?

Whilst the panel did appreciate that cases of dishonesty do raise questions about professionalism, it found that you did not display any deep-seated attitudinal issues and showed a good level of insight. The panel was of the view that, on the specific facts of this case, public confidence can be maintained without permanent removal from the register and that a suspension order would promote proper professional standards whilst upholding public confidence in the profession, as well as sending a clear message of the behaviour expected from a registered nurse. Taking account of all the information before it and of the mitigation provided, the panel concluded that it would be disproportionate to impose a striking off order.

Balancing all of these factors the panel has concluded that a suspension order for 12 months would be the appropriate and proportionate sanction to mark the seriousness of the misconduct in this case.

The panel noted the hardship such an order will inevitably cause you. However, this is outweighed by the public interest in this case.

At the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Your continued engagement with the NMC process
- [PRIVATE]
- A personal reflective piece to address professionalism and the impact your actions have had on the nursing profession and public confidence in the profession
- Sight of 'registrant's response bundle' from this hearing
- Sight of this final determination

This will be confirmed to you in writing.

### **Interim order**

As the suspension 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 suspension sanction takes effect. The panel heard and accepted the advice of the legal assessor.

### **Submissions on interim order**

The panel took account of the submissions made by Mr Edenborough. He submitted that an 18 month interim suspension order should be made to cover the statutory 28 day appeal window.

Mr Edenborough submitted that ordinarily, necessity is demonstrated by the fact that a substantive order has been made which cannot come into effect until the appeal window has closed.

Mr Edenborough stated that an interim order is not always needed, particularly in the case of a substantive order being made in the wider public interest only. He further submitted that, in this case, an interim order should be made to maintain public confidence in this case, given that there was a sustained nature of dishonesty surrounding these allegations and that the facts found proved are of a sufficiently serious nature.

You stated that you did not feel that an interim order was necessary as you do not pose a risk to patients and are not currently working in a nursing role.

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 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 to appropriately cover the 28-day appeal period, or if an appeal is made, until the outcome is determined.

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

That concludes this determination.