

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

**Substantive Hearing
Monday, 11 December 2023 – Tuesday, 19 December 2023**

Virtual Hearing

Name of Registrant:	Aimee O'Connell (nee Dorward)
NMC PIN	12B0524E
Part(s) of the register:	Registered Nurse – Sub Part 1 Adult Nursing – (April 2012)
Relevant Location:	Lancashire
Type of case:	Misconduct
Panel members:	Richard Weydert-Jacquard (Chair, Registrant Member) Susan Tokley (Registrant Member) Nicola Hartley (Lay Member)
Legal Assessor:	Charles Conway (11 – 15 December 2023) Sean Hammond (18 – 19 December 2023)
Hearings Coordinator:	Stanley Udealor (11 December 2023) Angela Nkansa-Dwamena (12 – 14 December 2023) Zahra Khan (15 – 19 December 2023)
Nursing and Midwifery Council:	Represented by Mohsin Malik, Case Presenter
Ms O'Connell (nee Doward):	Present (11 – 15 December 2023) and not represented Not present (18 – 19 December 2023) and not represented
Facts proved:	Charges 1b, 1c, 1d, 1e, 1f, 1g, 1h, 1i, 1j, 2, 3b, 4a, 4b, 4c, 4d, 4e, and 5
Facts not proved:	Charges 1a, 3a, 3c, and 4f
Fitness to practise:	Impaired

Sanction:

Caution order (2 years)

Interim order:

N/A

Details of charge

That you, a registered nurse:

- 1) Having conducted a PIP assessment of Person A, inaccurately recorded that:
 - a) he was not anxious.
 - b) his speech was normal.
 - c) his pinch and power grip had been assessed.
 - d) he never choked on food.
 - e) he attended appointments alone.
 - f) he could give and follow instructions.
 - g) his speech was clear.
 - h) he sat with his legs crossed.
 - i) he walked upright, unaided and steady.
 - j) you had conducted a musculoskeletal assessment.

- 2) Your actions at charge 1 were dishonest in that you knew the records you had made were inaccurate and you intended any subsequent reader to believe they were accurate.

- 3) On 8 August 2018, during a PIP assessment of Person B:
 - a) did not take sufficient time assessing Person B.
 - b) did not question Person B regarding physiotherapy.
 - c) did not take adequate consideration of the background information provided by Person B's mother.

- 4) Having conducted the PIP assessment of Person B referred to in charge 3, inaccurately recorded that:
 - a) he only used a single hearing aid.

- b) he chose to be mute.
 - c) he lived in a two-storey house.
 - d) he had 'no significant functional problems'.
 - e) you had conducted a musculoskeletal assessment.
 - f) 'reported restrictions of poor co-ordination ... which is inconsistent with findings at assessment'.
- 5) Your actions in charge 4 were dishonest in that you knew the records you had made were inaccurate and you intended any subsequent reader to believe they were accurate.

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

Background

The charges arose whilst you were employed as a Health Care Practitioner by Lancashire Care NHS Foundation Trust (the Trust), at [PRIVATE].

On 27 September 2017, you completed a Personal Independence Payment (PIP) assessment on Person A on behalf of Independent Assessment Services (IAS) formerly known as ATOS. Also present at the assessment was Relative 1. Person A has congenital heart disease and cerebral anoxia and had previously been awarded Disability Living Allowance (DLA) for life. On 23 October 2017, Person A was advised that he would not be entitled to a PIP and that he had scored zero points from the assessment conducted by you on 27 September 2017. Relative 1 appealed the decision on behalf of Person A. On 19 November 2018, the appeal was successful, and Person A was awarded a PIP by the Tribunal with a re-calculated score of 22 points instead of zero.

Relative 1 initially referred her concerns to the NMC on 5 March 2018. She alleged that the PIP assessment report made by you, contained fabricated information which did not reflect the reality of the assessment. However, the case was closed at the

Screening stage. Following new information and a further review, the case was re-opened by the NMC.

Another referral was made against you by Relative 2 to the NMC. On 8 August 2018, you carried out a PIP assessment on Person B. Also present at the assessment was Relative 2. It was alleged by Relative 2 that the PIP Assessment report written by you contained various fabrications. She also alleged that your report resulted in all PIP and DLA support payments to Person B being revoked by the Department for Work and Pensions (the DWP). She alleged that the report was inconsistent with the documentation that they had submitted prior to the assessment.

Relative 2 made a complaint about her concerns which were reviewed by ATOS (IAS) and Witness 3. At the time of the incident, Witness 3 was working as a PIP Assessor and Clinical Lead for the Trust. Witness 3 alleged that there had been prior concerns, regarding the quality and correctness of PIP reports written by you. She further alleged that upon reviewing the PIP report for Person B and the documents that had been submitted to support his claim, many inconsistencies were discovered in the PIP Assessment report you had prepared on Person B.

Witness 3 decided to offer a new assessment appointment to Person B. At the conclusion of the new assessment and report, Person B's PIP and DLA support payments were reinstated.

It was alleged by Witness 3 that you were provided with various support and mentoring by the Trust.

Decision and reasons on application to admit paragraphs 8 and 9 of the written statement of Witness 3 into evidence

At the outset of the hearing on Day 2, you and Mr Malik, on behalf of the Nursing and Midwifery Council (NMC), formally made submissions on an application to admit paragraphs 8 and 9 of the written statement of Witness 3 into evidence, following a discussion the day before.

The contents of paragraph 8 referred to other, unspecified complaints relating to your practice, which were of a similar nature to the charges in this case. You submitted that you were not made aware of the complaints at the time they were made or any time after. You further stated that you had no information relating to these complaints and they are unspecified in Witness 3's statement, so you are unable to deal with them therefore, it would be unfair for this to be admitted as evidence in this case.

The information contained within paragraph 9 discussed the conclusions of these complaints and the subsequent revocation of your provision approval. You submitted that the revocation of your provisional approval was not a Trust decision, but one that was actioned by ATOS. You said that there was no performance management put in place and you were redeployed to another team.

Mr Malik invited the panel to admit paragraphs 8 and 9 of Witness 3's witness statement into evidence. He submitted that these paragraphs are relevant as they relate to the charges in this case, and they detail that there were an increasing number of complaints about reports you had completed following PIP assessments. He further submitted that at the time, Witness 3 was working as a PIP Assessor and was your Line Manager and would be the perfect person to tell the panel about the complaints to enable the panel to decide whether you were dishonest.

Mr Malik submitted that you previously told the NMC that you did not want Witness 3 to give evidence as you had submitted a grievance against her on the grounds that you did not receive adequate support whilst you were a PIP assessor. He submitted that you may have some bias towards Witness 3, and you will be able to address this with the panel when you are given the opportunity to cross examine Witness 3 on anything you deem to be untrue or inaccurate.

Mr Malik submitted that it is important for paragraphs 8 and 9 to be admitted into evidence as the charges before you are very serious, and your alleged actions have had a detrimental impact on patients and Witness 3's evidence will assist the panel to understand the way you were working at the time.

The panel heard from and accepted the advice of the legal assessor. It had regard to Rule 31(1) of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004, as amended (the Rules).

The panel decided to not admit the first two sentences and last sentence of paragraph 8 and the entirety of paragraph 9 of Witness 3's witness statement into evidence. With regards to paragraph 8, the panel was of the view that previous complaints made about you were relevant to the charges. However, it determined that it would be unfair to admit this into evidence, as the complaints were unspecified, and they had not been brought to your attention. The panel also noted that the previous complaints were not the subject of any of the charges and there was no documentary evidence to support them, therefore the panel would have to rely on the hearsay testimony of Witness 3.

In relation to paragraph 9, the panel also decided that it was not relevant to the charges being considered at present and would not assist the panel in its deliberations on the facts. In light of this the panel determined that paragraph 9 of Witness 3's statement should not be admitted into evidence.

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

Prior to hearing Relative 2's (Witness 2) oral evidence on Day 2, Mr Malik made an application for parts of this hearing to be held in private. He submitted that following a preliminary discussion with Relative 2, there would be significant references made to [PRIVATE]. This application was made pursuant to Rule 19 of the Rules.

You submitted that you had no objections to this application and supported the fact that matters pertaining to [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 would be extensive references to [PRIVATE], the panel determined to hold these parts of the hearing in private.

Decision and reasons on application to admit the written statement of Witness 4 into evidence

Before the close of the NMC's case on Day 3, the panel heard an application made by Mr Malik, to allow the written statement of Witness 4, dated 23 September 2021, to be read into the record and admitted into evidence. This application was made pursuant to Rule 31.

You indicated that you did not object to this application.

The panel heard from and accepted the advice of the legal assessor.

The panel decided to allow the written statement of Witness 4 to be admitted into evidence and took into consideration that the application was not contested. In these circumstances, the panel was of the view that it would be fair and relevant to accept into evidence the written statement of Witness 4 and would give it appropriate weight once it had heard and evaluated all the evidence before it. The statement was read into the record by the Hearings Coordinator.

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, including your reflective piece, your statement dated 5 December 2023 together with the submissions made by Mr Malik and yourself.

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:

- Witness 1: Relative 1, Mother of Person A.
- Witness 2: Relative 2, Mother of Person B.
- Witness 3: PIP Assessor and Clinical Lead for the Trust at the time of the incidents.

The panel also considered the written statement of:

- Witness 4: Independent Assessor/ATOS Clinical Support Lead.

The panel also heard evidence from you under affirmation.

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 both the NMC and you.

The panel noted that when questioned about all the matters contained within charges 1,3, and 4, you had stated that due to the passage of time, the number of cases you had undertaken and the and pressures of the working environment, you could not recall either PIP assessment for Person A or Person B, or any of the details therein. However, the panel accepted that this was not evidence that these events did not happen. Further, because you were not able to recall the events, this meant that there was no evidence from you to undermine or contradict the evidence given by Witness 1 and Witness 2.

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

Charge 1a

That you, a registered nurse:

- 1) Having conducted a PIP assessment of Person A, inaccurately recorded that:
 - a) he was not anxious.

This charge is found NOT proved.

In reaching this decision, the panel took into account Person A's PIP Consultation Report form completed on 27 September 2017, the oral evidence of Witness 1 and her written NMC witness statement dated, 4 July 2019.

The panel noted that in Witness 1's witness statement, she had stated the following:

'Patient A was extremely nervous during this interview, as was I.'

However, the panel noted that within the PIP form, the following was documented:

'Normal manner, not anxious, agitated or tense.'

The panel bore in mind that there were other observations undertaken within the assessment which did not indicate symptoms of anxiety:

'Respiratory rate: On sitting: 14 breaths per minute. Following exertion: 17 breaths per minute.

Normal range 12-20 breaths per minute.

He is within normal range.

...

Normal facial expression

Behaved normally, not hostile or withdrawn

Increased sweating was not apparent.'

The panel decided to accept the documentary evidence contained within the PIP form. The panel was of the view that there was no other evidence from the form or any positive assertions within Witness 1's witness statement, that a question regarding Person A's level of anxiety had been asked. In addition, the panel acknowledged that although Person A may have been described as '*nervous*' by Witness 1, there may not have been an apparent exhibition of the symptoms of anxiety during the assessment, and it may not have been easily recognised by someone who did not know Person A.

In light of the above, the panel found that whilst it was recorded that Person A was not anxious, in the absence of any questioning about Person A's anxiety levels, this information was not inaccurately recorded. The panel decided that this charge could not be found proved, on the balance of probabilities, as the NMC has not discharged its burden of proof concerning this matter.

Accordingly, the panel found charge 1a not proved on the balance of probabilities.

Charge 1b-1j

That you, a registered nurse:

1) Having conducted a PIP assessment of Person A, inaccurately recorded that:

- a) ...
- b) his speech was normal.
- c) his pinch and power grip had been assessed.
- d) he never choked on food.
- e) he attended appointments alone.
- f) he could give and follow instructions.
- g) his speech was clear.
- h) he sat with his legs crossed.
- i) he walked upright, unaided and steady.
- j) you had conducted a musculoskeletal assessment.

These charges are found proved.

The panel considered each of these charges individually. In reaching this decision, the panel took into account your oral evidence, the oral evidence of Witnesses 1 and 3, the PIP form, an undated letter from a Consultant Cardiologist and a letter from Person A's employer dated 19 December 2017.

The panel noted that within the PIP assessment form, you had recorded the information detailed within the charges. When questioned during your oral evidence, you told the panel that you could not recall this particular assessment due to the passage of time and the fact that you had completed a large number of assessments during your time as a PIP assessor.

The panel had regard to the above evidence which outlined that Person A had:

'a significant degree of cognitive impairment which will affect his ability to be able to concentrate, communicate and understand information.

...

some impairment of his speech which can make it quite difficult for him to be understood at times.'

In addition, Person A was described to be:

'somewhat clumsy with poor co-ordination'

Within the PIP questionnaire form, Person A stated:

'I am always told I just put food in my mouth and swallow it without chewing. I am in danger of choking'

The panel also had regard to the oral evidence of Witness 1 who had stated that she had accompanied Person A to all their appointments, except a few nurse appointments. Furthermore, Witness 1 stated that during the PIP assessment no

musculoskeletal assessment was performed, and Person A could not sit with his legs crossed.

Having regard to the PIP form, the panel was satisfied that the information in the charges were recorded. However, the panel also had regard to the evidence of Witness 1 in addition to the information provided by Person A in the PIP questionnaire form and from the Consultants and decided to accept this evidence. The panel found Witness 1 to be a credible witness whose oral evidence was consistent with her witness statement and the information provided by senior medical professionals. The panel therefore accepted her evidence.

Regarding the musculoskeletal assessment, the panel noted that within the PIP form, there was an extensive musculoskeletal assessment that was documented. The panel also noted that the wording of this assessment was identical to the musculoskeletal assessment documented for Person B. The panel heard from both you and Witness 3 that there were significant IT issues that would occur during the course of a PIP assessment. You explained the section for musculoskeletal assessments was often a 'sticking point' in the IT system. You told the panel that often the assessment would not be required and the only way to move past this section was to click a button that would say the assessment was completed and you would then inform the IT department that this had been done. You also told the panel that you could not recall this particular assessment with Person A. The panel considered that the documented musculoskeletal assessment may have been automatically generated in the circumstances you described.

In light of the above, the panel determined that in the absence of evidence to the contrary, the information you had recorded within the PIP form about Person A was inaccurate.

Accordingly, the panel found charges 1b-1j proved on the balance of probabilities.

Charge 2

2) Your actions at charge 1 were dishonest in that you knew the records you had made were inaccurate and you intended any subsequent reader to believe they were accurate.

This charge is found proved.

The panel first considered its previous findings with respect of charges 1b-1j.

Having found these charges proved, the panel went on to consider whether or not your actions in charges 1b-1j were dishonest. It had regard to the test set out in *Ivey v Genting Casinos* [2017] UKSC 67, which outlines the following:

- What was the defendant's actual state of knowledge or belief as to the facts; and
- Was the conduct dishonest by the standards of ordinary decent people?

The panel also had regard to the NMC guidance entitled '*Making decisions on dishonesty charges*' (reference DMA-7) dated 12 October 2018. Within this guidance, Fitness to Practise Committee (FtPC) panels are advised to decide whether the conduct indeed took place and if so, what was the registrant's state of mind at the time. Panels are reminded to consider the following:

- '*What the nurse, midwife or nursing associate knew or believed about what they were doing, the background circumstances, and any expectations of them at the time*
- '*Whether the panel considers that the nurse, midwife or nursing associate's actions were dishonest, or*
- '*Whether there is evidence of alternative explanations, and which is more likely.*'

In reviewing the evidence, the panel considered the evidence of Witness 1, the PIP questionnaire form and the evidence from senior medical professionals. It found that you must have known that the information that you had input into the PIP form was not accurate. The panel was of the view that you knew that the information did not reflect Person A's condition, given the supporting evidence from the questionnaire form that would have been before you. The panel considered that your conduct in relation to charges 1b-1j would be regarded as dishonest by the standards of ordinary decent people.

In light of the above, the panel was satisfied that you were dishonest in your actions and that you intended for any subsequent reader to believe that what you had written was accurate.

Accordingly, the panel found charge 2 proved on the balance of probabilities.

Charge 3a

- 3) On 8 August 2018, during a PIP assessment of Person B:
 - a) did not take sufficient time assessing Person B.

This charge is found NOT proved.

In reaching this decision, the panel took into account the PIP form and the written evidence of Witness 2 and the oral evidence of Witness 3.

The panel noted that the time on the PIP form indicated that the assessment commenced at 10:36 and concluded at 11:40, totalling 56 minutes.

Witness 2 confirmed that the assessment commenced at 10:36, but also stated in her witness statement that:

'By 10:36 we were in the room and the assessment had begun. I estimate the assessment took no more than 20 minutes'

The panel bore in mind the oral evidence of Witness 3, who had stated that you would have been expected to complete three to four PIP assessments a day. However, she did not indicate what would be considered as '*sufficient time*'. The panel had no evidence before it to indicate how long an assessment should take. It also noted that it was not specified if this time applied solely to the face-to-face assessment or included the final documentation of the assessment. Therefore, the panel could not determine if 56 minutes, as outlined on the PIP form or 20 minutes, described by Witness 2, would be considered a sufficient amount of time to conduct an assessment in this context.

In light of the above, the panel determined that in the absence of supporting evidence, this charge could not be found proved, on the balance of probabilities, as the NMC has not discharged its burden of proof concerning this matter.

Accordingly, the panel found charge 3a not proved on the balance of probabilities.

Charge 3b

3) On 8 August 2018, during a PIP assessment of Person B:

b) did not question Person B regarding physiotherapy.

This charge is found proved.

In reaching this decision, the panel took into account Person B's PIP form completed on 8 August 2018, the oral evidence of Witness 2 and a letter from Person B's GP dated 8 March 2018.

The panel noted that within the PIP form, you made no references to Person B having a physiotherapist. When questioned during your oral evidence, you told the panel again that you could not recall this particular assessment due to the passage of time and the fact that you had completed a large number of assessments during your time as a PIP assessor.

The panel heard from Witness 2 that you had asked Person B what was wrong with his knee as he was on crutches however, you did not specifically ask any questions in relation to physiotherapy. Witness 2 also stated that Person B had Compartment Syndrome, where an increase in pressure inside a muscle can restrict blood flow and cause pain, which would require input from a physiotherapist.

This was confirmed by a letter from Person B's GP:

'He presents with exertional compartment syndrome.

...

I referred him to MSK physiotherapy...'

The panel accepted the evidence of Witness 2. It was of the view that you did not ask Person B or Witness 2 a question about physiotherapy as there was no evidence of this on the PIP form.

In light of the above, the panel determined that in the absence of evidence of the contrary, charge 3b is found proved on the balance of probabilities.

Charge 3c

3) On 8 August 2018, during a PIP assessment of Person B:

c) did not take adequate consideration of the background information provided by Person B's mother.

This charge is found NOT proved.

In reaching this decision, the panel took into account the oral and written evidence of Witness 2.

The panel noted that Witness 2 had stated the following in her witness statement:

'I submitted information and supporting documentation regarding [Person B's] conditions to the assessor/ATOS prior to the assessment with the registrant. In addition to the detail I wrote directly on the form, I supplied another 48 pages of additional information including letters from [Person B's] treating professionals...'

During her oral evidence, Witness 2 stated that you should have been aware of Person B's conditions at the time of the assessment, and she had also provided verbal information during the assessment.

However, the panel was unable to determine if you had given adequate consideration to this information as it had no evidence before it to suggest what *'adequate consideration'* constituted in this context.

In light of the above, the panel determined that in the absence of this evidence, this charge could not be found proved, on the balance of probabilities, as the NMC has not discharged its burden of proof concerning this matter.

Accordingly, the panel found charge 3c not proved on the balance of probabilities.

Charge 4a

4) Having conducted the PIP assessment of Person B referred to in charge 3, inaccurately recorded that:

a) he only used a single hearing aid.

This charge is found proved.

In reaching this decision, the panel took into account the PIP form and the written and oral evidence of Witness 2, in addition to a photograph provided by Witness 2.

The panel noted that Witness 2 had stated the following in her witness statement:

'Person B has been diagnosed as having... profound unilateral hearing loss

...

... he has hearing aids'

The panel also had regard to a photograph of two hearing aids worn by Person B with the following text underneath it:

'Hearing aids which require two different types of batteries.

...

He wears them in these situations and was wearing them at the assessment.'

There was further text within the bundle which stated:

'Pictures of the aids [Person B] uses including the two hearing aids which do not work alone despite Ms Dowards [sic] report that he wore one aid on his right ear and then stating he had no aids or adaptations.

To clarify, [Person B's] right ear does not work aided or unaided and the impression Ms Doward gives in her report of an aided right ear and normal left ear is inaccurate.'

Witness 2 confirmed during her oral evidence that Person B has profound unilateral hearing loss.

The panel noted that within Person B's PIP form, you had documented that Person B had:

'profound hearing loss right side...

...

... Hearing aid to right ear'

The panel accepted the evidence of Witness 2 and found that you did record that Person B only had one hearing aid, which was inaccurate.

In light of the above, the panel was satisfied that you did inaccurately record that Person B used a single hearing aid.

Accordingly, the panel found charge 4a proved on the balance of probabilities.

Charge 4b

4) Having conducted the PIP assessment of Person B referred to in charge 3, inaccurately recorded that:

b) he chose to be mute.

This charge is found proved.

In reaching this decision, the panel took into account the PIP form, the written and oral evidence of Witness 2.

In her witness statement, Witness 2 stated that:

'Person B was diagnosed as having selective mutism'

The panel heard from Witness 2 that Person B's selective mutism was due to his anxiety, and he sometimes would not speak to anyone other than herself and his grandmother, despite having close family members who live on the same road.

The panel acknowledged that on the PIP form, you documented that Person B:

'He finds it hard to engage with people due to his hearing and he chooses to be a mute and not speak to anyone.'

The panel accepted the evidence of Witness 2. The panel was of the view that Person B's selective mutism did not involve a 'choice' to be mute, but rather a symptom of his anxiety.

In light of the above, the panel was satisfied that you did inaccurately record that Person B 'chose' to be mute.

Accordingly, the panel found charge 4b proved on the balance of probabilities.

Charge 4c

4) Having conducted the PIP assessment of Person B referred to in charge 3, inaccurately recorded that:

c) he lived in a two-storey house.

This charge is found proved.

In reaching this decision, the panel took into account of the PIP form and written and photographic evidence from Witness 2.

The panel had regard to a photograph provided by Witness 2 in the bundle which demonstrates that Person B lived in a three-storey building.

Text above this photograph supported this evidence:

'Below is a picture of our family home. [REDACTED]. The assessor stated we lived in a house with 2 floors. She didn't ask for any background information or history and a lot of the information is incorrect. Our property is 3 floors not 2. There are bedrooms on every floor which is ideal.'

On the PIP form you had documented that:

'He lives in a house over 2 floors...'

The panel accepted the evidence of Witness 2. It found that Person B lived in a three-storey house at the time of the assessment. In light of this, the panel was

satisfied that you did inaccurately record that Person B lived in *'a house over two floors.'*

Accordingly, the panel found charge 4c proved on the balance of probabilities.

Charge 4d

4) Having conducted the PIP assessment of Person B referred to in charge 3, inaccurately recorded that:

d) he had *'no significant functional problems'*.

This charge is found proved.

In reaching this decision, the panel took into account the PIP form, the PIP questionnaire filled in by Witness 2 and her oral and witness statement evidence.

The panel acknowledged that with the above evidence, Person B suffered from significant physical and psychological functional problems, especially with regards to his chronic exertional compartment syndrome, profound unilateral hearing loss, selective mutism, dyslexia and dyspraxia.

It also noted that although you had recorded these conditions on the PIP form, you also recorded that Person B did not have any functional problems. During your oral evidence, you stated that you could not recall this particular assessment with Person B due to the passage of time and the fact that you had completed a large number of assessments during your time as a PIP assessor and you were not disputing the recollections of Witness 2.

The panel accepted the evidence of Witness 2. It found that Person B did suffer from significant functional problems on account of his medical history. In light of this, the panel was satisfied that you did inaccurately record that Person B had no significant functional problems.

Accordingly, the panel found charge 4d proved on the balance of probabilities.

Charge 4e

4) Having conducted the PIP assessment of Person B referred to in charge 3, inaccurately recorded that:

e) you had conducted a musculoskeletal assessment.

This charge is found proved.

In reaching this decision, the panel took into account of the PIP assessment form, the oral evidence and written statement of Witness 2, your oral evidence and the oral evidence of Witness 3.

The panel noted that within the PIP form, there was an extensive musculoskeletal assessment that was documented. The panel also noted that the wording of this assessment was identical to the musculoskeletal assessment documented for Person A. The panel heard from both you and Witness 3 that there were significant IT issues that would occur during the course of a PIP assessment. You explained the section for musculoskeletal assessments was often a 'sticking point' in the IT system. You told the panel that often the assessment would not be required and the only way to move past this section was to click a button that would say the assessment was completed and you would then inform the IT department that this had been done. You also told the panel that you could not recall this particular assessment with Person B. The panel considered that the documented musculoskeletal assessment may have been automatically generated in the circumstances you described.

However, the panel heard from Witness 2 that you did not conduct a physical musculoskeletal assessment on Person B during the assessment and Person B had not moved from his chair throughout the assessment.

The panel accepted the evidence of Witness 2. It found that a musculoskeletal assessment most likely did not take place during the assessment period. In light of this, the panel was satisfied that you had recorded that Person B had undergone a musculoskeletal assessment, which was in fact inaccurate.

Accordingly, the panel found charge 4e proved on the balance of probabilities.

Charge 4f

4) Having conducted the PIP assessment of Person B referred to in charge 3, inaccurately recorded that:

f) 'reported restrictions of poor co-ordination ... which is inconsistent with findings at assessment'.

This charge is found NOT proved.

In reaching this decision, the panel determined that the wording of this charge was too vague for it to be satisfied for it to come to any conclusion. Therefore, it could not find this charge proved.

Accordingly, the panel found charge 4f not proved on the balance of probabilities.

Charge 5

5) Your actions in charge 4 were dishonest in that you knew the records you had made were inaccurate and you intended any subsequent reader to believe they were accurate.

This charge is found proved.

In reaching this decision, the panel took into account its findings with regards to charges 4a-4e. It also had regard to NMC guidance (DMA-7) and the test set out in *Ivey v Genting Casinos*.

The panel was of the view that you were dishonest in relation to charges 4d and 4e. In reviewing the evidence, it found that you must have been aware that Person B had significant functional problems given his medical history and the information provided by Witness 2. In addition, you must have been aware that you had not conducted a musculoskeletal assessment. The panel considered that your conduct in relation to charges 4d and 4e would be regarded as dishonest by the standards of ordinary decent people.

In light of the above, the panel determined that you were dishonest in your actions and that you intended for any subsequent reader to believe that what you had written was accurate.

Accordingly, the panel found charge 5 proved on the balance of probabilities.

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 ability to practise kindly, safely, and professionally.

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

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 Malik 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 Malik identified the specific, relevant standards where your actions amounted to misconduct. He referred to paragraphs 10, 10.3, 20, 20.1, and 20.2 of the Code.

Mr Malik submitted that the dishonesty raises fundamental concerns of your trustworthiness as a professional. He reminded the panel that you stated that you had completed assessments which did not take place.

Mr Malik reminded the panel that it heard evidence from Witness 2, who stated that your actions have caused long-lasting effects on her son, namely Person B, and that he is still suffering at present. Mr Malik submitted that there has been detrimental impact on both Person A and B’s lives, and that Person B will no longer visit the doctor anymore.

Further, Mr Malik submitted that families have gone through financial stress as for your misconduct. He submitted that the misconduct is a serious departure from the Code, and that fellow practitioners would find your actions deplorable. He submitted that there is a risk of repetition. He also submitted that, as dishonest conduct goes against the spirit of the NMC’s Code, it can be difficult to remediate. He submitted that the panel is to bear in mind its overarching object to protect the public.

Mr Malik therefore submitted that the facts found proved amount to misconduct.

You submitted that it is difficult to admit to something that you do not recall. You submitted that, since working in that role, you have not received any complaints about your practice.

You told the panel that you have worked in multiple roles within the Trust. Your role is always around assessing patients and you have never had any issues when looking after patients. You informed the panel that the NMC have never put any caution on your PIN, and that you have revalidated twice.

You submitted that, since having the NMC referral hanging over you for six years, you have proved yourself in several roles and been promoted. You told the panel that you have done so in order to change how patients are treated. During COVID-19, you said that people did not have families or advocates in the hospital, and so you made sure that you acted as their advocate.

Submissions on impairment

Mr Malik 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).

Mr Malik reminded the panel that the NMC's guidance explains that impairment is not defined. However, he submitted that the panel should consider whether you can practise kindly, safely, and professionally. He submitted that if the answer is 'yes', then the likelihood is that your fitness to practise is not impaired.

In relation to whether your fitness to practise is currently impaired, Mr Malik submitted that it involves a nature of concern and the public interest. He submitted that nurses are expected at all times to be professional, and that nurses must be honest and open, and act with integrity.

Mr Malik referred to Dame Janet Smith's "test" in the case of *CHRE v NMC and Grant*. He submitted that all four limbs are engaged by the circumstances of this case.

Mr Malik submitted that your misconduct has brought the profession into disrepute and that the public have the right to expect a nurse to be honest and to tell the truth. Further, he submitted that there is a public interest to declare and uphold the proper standards of conduct and behaviour.

Mr Malik submitted that current impairment is evident and invited the panel to consider whether there is any future risk in this case. He submitted that it is for the panel to assess the risk of repetition in this regard.

Mr Malik therefore submitted that your current fitness to practise is impaired by reason of your misconduct.

You submitted that your understanding of what Mr Malik said is that, once you have been deemed dishonest in one area of your work, you are dishonest in everything that you do. Further, that once you have been found to make a mistake in something, you should never be able to do it again. However, you told the panel that you feel as if you have proved yourself in the last six years.

When questioned by the panel as to what you would do if you were put in a situation where you were asked to do something you knew was wrong, you said that you have been in this type of situation since the date of the charges. You told the panel that, during COVID-19, you were asked not to follow your usual discharge process due to speed. However, you were adamant in your particular Trust, to follow those processes, despite understanding the necessity of speed. You told the panel that you ensured that patients' best interests were met and that patients were also treated properly. You decided to continue to follow procedure in your Trust despite having been verbally instructed not to, and as such, have demonstrated your commitment to being an advocate for your patients.

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

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:

‘10 Keep clear and accurate records relevant to your practice This includes but is not limited to patient records. It includes all records that are relevant to your scope of practice.

To achieve this, you must:

10.3 complete all records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements

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...’

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was satisfied that the above paragraphs of the Code are relevant and engaged in this context.

In relation to charge 1, excluding sub-charge 1a, the panel looked at each sub-charge individually. The panel determined that, cumulatively, sub-charges 1b, 1c, 1d, 1e, 1f, 1g, 1h, 1i, and 1j, amounted to misconduct due to the number of inaccuracies that you made when conducting a PIP assessment for Person A, despite each sub-charge on an individual basis not amounting to misconduct.

In relation to charge 2, the panel determined that your dishonesty amounted to misconduct. The panel considered your dishonesty in deliberately submitting factually incorrect information. The panel bore in mind the oral evidence of Witness 1, where it was made clear that your actions held significant consequences on Person A's ability to access PIP funding, thus negatively impacting Person A's overall financial situation. The panel also considered that you deliberately misled other professionals whom were reading that document which contained incorrect information.

In relation to charge 3, the panel did not view sub-charge 3b to amount to misconduct.

In relation to charge 4, excluding sub-charge 4f, the panel looked at each sub-charge individually, as it did with charge 1. The panel determined that sub-charges 4a, 4b, and 4c, both individually and collectively, did not amount to misconduct. The panel was of the view that these three sub-charges were a misunderstanding on your part, as opposed to misconduct. However, the panel determined that, cumulatively, sub-charges 4d and 4e, amounted to misconduct due to your factually inaccurate recording of Person B's functional impairment and that you had undertaken a musculoskeletal assessment.

In relation to charge 5, the panel determined that your dishonesty amounted to misconduct. The panel bore in mind the oral evidence of Witness 2, in which it was clear that your actions had an adverse impact on Person B. The panel considered

that there was a significant delay in Person B accessing his PIP funding. Your dishonesty led to secondary consequences as it negatively impacted Person B's educational support funding, as well as his overall financial situation.

The panel therefore found that your actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct, in relation to charges 1b, 1c, 1d, 1e, 1f, 1g, 1h, 1i, 1j, 2, 4d, 4e, and 5.

Decision and reasons on impairment

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

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which states:

'The question that will help decide whether a professional's fitness to practise is impaired is:

"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"

If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired.'

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

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

'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider

not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

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

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

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

The panel found that patients were, in the past, put at risk and caused emotional and financial harm as a result of your misconduct. Your misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. Having found that you had been dishonest on two charges, the panel determined that you had acted dishonestly in the past. However, despite the seriousness of dishonesty, the panel determined that your dishonesty was opportunistic as opposed to being premeditated and inherent.

Regarding insight, the panel considered that you demonstrated an adequate understanding of how your actions put Person A and Person B at risk of harm, and subsequently, the negative impact that your actions had on them and their families. Further, the panel considered that you demonstrated how you would handle the situation differently in the future. The panel took into account the example that you provided, whereby you put patients' needs before convenience during COVID-19 and advocated for your patients.

Regarding remorse, the panel had regard to your written reflective piece, which stated:

'... I think of those families and regret not being able to have the grounds I do now to have more control, I feel remorse that we are still here 6 years later. I feel remorse for not being the advocate I needed to be for these people rather than the advocate for the process. I wish they could see how much effort I have put into ensuring I follow guidance and the code and have worked to be able to be in a role where I can implement the process to be person-centred and allow the nurses the time they need with the patients and ensuring their journey is as good as it can be... I hope none of the hundreds of patients who are referred to my team ever have a poor unfair journey these patients and their families have experienced....'

The panel also carefully considered the evidence before it in determining whether you have taken steps to strengthen your practice. The panel took into account the online courses that you undertook in 2020 in your Nursing Studies Bachelor's degree at university.

In relation to dishonesty, the panel was of the view that dishonesty is not easily remediable. The panel considered your dishonesty to have been opportunistic in nature, and not a longstanding premeditated dishonesty. As such, the panel determined that your dishonesty was at the lower end of the spectrum. However, in all the circumstances above, the panel determined that you have remediated your dishonesty. In addition to your clear remorse, your reflections on the impact of your

actions upon Person A and Person B, and your insight which demonstrated strengthened practice, the panel also had regard to a positive reference from your current line manager, dated 23 October 2023, which states:

‘Aimee is a very committed nurse who works to a high standard within her job role. She has had 2 secondment periods since 30th January 2023, as a clinical lead (band 8a), operationally supporting the team to provide assessments and reviews for continuing healthcare eligibility...

Her decision making within this and her permanent team leader position, (band 7) has been sound, using evidence given to underpin activity. She communicates well with patients and team members alike. Aimee works collaboratively with the team and strategic partners, sharing skills and knowledge. She recognises and works within the limits of her competence and will seek support from others to ensure patient care is not compromised...

I have received no complaints with regard to Aimee’s work within the service and she has been open and transparent with regard to this investigation from the NMC. I regularly undertake 1:1 meeting with Aimee and her developmental appraisal has been completed and targets set to support her current work and career development...’.

The panel therefore determined that all four limbs of Dame Janet Smith's “test” in *Grant* were engaged, in relation to the past. However, the panel determined that the four limbs were not engaged in relation to the future, on the basis of your developed insight and remorse, and the steps you have taken to strengthen your practice. The panel was of the view that you have reflected and are unlikely to repeat those actions again. The panel considered that you have worked as a registered nurse for six years with no restriction, nor have any concerns been raised about your practice.

Further, the panel bore in mind that you have risen from a Band 5 position to a Band 8A position as Clinical Lead, and have been promoted in multiple roles more than once, over several years. The panel was of the view that you are clearly respected in

your organisation. Thus, in these circumstances, the panel determined that there is no longer a risk of repetition.

The panel therefore determined that a finding of impairment is not necessary on the grounds of public protection.

However, 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, given the seriousness of the consequences that your misconduct caused for both Person A and Person B and their families, and also taking into account the involvement of dishonesty, public confidence in the profession would be adversely impacted and undermined if a finding of impairment was not made on the grounds of public interest.

The panel therefore determined that a finding of impairment is necessary on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired on the grounds of public interest alone.

Application on proceeding in Ms O'Connell's absence

The panel considered whether it should proceed in the absence of Ms O'Connell upon receiving an email from Ms O'Connell to the Hearings Coordinator, dated 18 December 2023. The email stated:

'... can my sincere apologies please be made to the panel, the families and the legal assessor for my lack of attendance today...[PRIVATE]. I'm happy for this to go ahead in my absence...'

The panel was also provided with written submissions, in relation to Sanction, that Ms O'Connell sent the Hearings Coordinator, in light of her absence.

Given the circumstances, Mr Malik did not oppose continuing in the absence of Ms O'Connell who has voluntarily absented herself from the remaining stages of the proceedings.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised '*with the utmost care and caution*'.

The panel has decided to proceed in the absence of Ms O'Connell. In reaching this decision, the panel has considered both the interests of justice and Ms O'Connell's best interests. The panel took into account the fact that there has already been a significant delay in concluding these proceedings at the NMC. The panel is aware that Ms O'Connell wishes for these proceedings to be resolved and concluded.

The panel is satisfied that there is no unfairness to Ms O'Connell as she provided it with written submissions prior to the sanction stage starting.

The panel had particular regard to the factors set out in the decision of *R v Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties.

The panel considered adjourning the hearing, however, noted that there would be a further delay which would not be in Ms O'Connell's best interests. The panel also considered that there is a strong public interest in the expeditious disposal of the case.

In these circumstances, the panel decided that it is fair to proceed with the remainder of the hearing in the absence of Ms O'Connell.

Sanction

The panel considered this case very carefully and decided to make a caution order for a period of two years. The effect of this order is that Ms O'Connell's name on the NMC register will show that she is subject to a caution order and anyone who enquires about her registration will be informed of this order.

Submissions on sanction

Mr Malik informed the panel that in the Notice of Hearing, dated 30 October 2023, the NMC had advised Ms O'Connell that it would seek the imposition of a striking-off order if it found Ms O'Connell's fitness to practise currently impaired.

Mr Malik submitted that the panel should consider the dishonest conduct that has taken place. In relation to aggravating features, Mr Malik submitted that Ms O'Connell's actions had significant consequences on both Person A and Person B's financial situation and that Ms O'Connell was dishonest on two occasions.

In relation to mitigating features, Mr Malik submitted that Ms O'Connell has engaged with the NMC proceedings and shown some insight and reflection. Having had sight of Ms O'Connell's written submissions on sanction, he submitted that the panel could infer that Ms O'Connell has shown remorse and apologised to the families for her actions. He also referred to Ms O'Connell's positive reference from her current employer, via a letter dated 23 October 2023.

Mr Malik submitted that taking no action or imposing a caution order would not be the appropriate nor proportionate order as dishonesty is a serious matter. He submitted that this would not be in the public interest either.

Mr Malik submitted that a conditions of practice order is a more suited sanction for those cases that include clinical concerns and identifiable areas to ensure that nurses can be supported to safer practice. However, as of Ms O'Connell's case, Mr Malik submitted that this order would not be appropriate as there are no concerns relating to her clinical ability or practice. He submitted that the misconduct is the

dishonesty. He submitted that it is difficult to remediate dishonesty and the incidents questioned Ms O'Connell's integrity.

Mr Malik submitted that a suspension order is not sufficient to address the seriousness of the concerns identified and to meet the NMC's overarching objective. He submitted that the seriousness found in this case does not require temporary removal from register.

Mr Malik submitted that a striking-off order is the only appropriate and proportionate order that does not undermine the trust and confidence of the profession. He submitted that the nature and seriousness of misconduct called into question Ms O'Connell's integrity and professionalism.

Mr Malik submitted that Ms O'Connell did not act with integrity on two occasions and that the findings demonstrate that her actions were serious. He submitted that the reputation of the profession is more important than the fortunes of any individual member. In these circumstances, he submitted that a fully informed member of the public would be concerned to learn that Ms O'Connell was able to continue to practice.

Therefore, Mr Malik invited the panel to impose a striking-off order.

The panel also bore in mind Ms O'Connell's written submissions, dated 18 December 2023, stating:

*'I can only say what I have said before
I am deeply sorry for the families experience and feel that my learning from my time in that role has been paramount to the nurse I am today.
I have had this referral hanging over me for 6 years. [PRIVATE]. However, The NMC have never found it necessary to sanction my practice and have re validated me twice in this time.
I have ensured that I have worked hard and ensured my practice is impeccable and that of my team is also. I wanted to be working in a role*

where I write the processes and ensure every process has a patient in the middle of it.

I have had not one complaint since leaving that role.

[PRIVATE] we are working in times where we have to care for people in the centre of every decision we make, despite the surroundings.

I ensure the hundreds of patients I have cared for have been that.

I have implemented changes to practice to ensure nurses have time needed to conduct any assessment required correctly.

I have paid my way through university to improve me learning and I still encourage and use peer review to make sure my practice is of the highest level.

I sincerely apologise to the families for the assessments conducted and for my not being able to currently attend today.

Sorry again

I hope the panel can see I am a good nurse. I have laid holding people's hands as they pass from covid and stood up to top trust bosses to ensure patient safety and advocacy is supported. This takes confidence in a person and within your role. I have that confidence.

I am sorry again

Nursing to me is not just a job it's my life my patients aren't just numbers I laugh cry and grieve with them.

I make sure they're safe and I help their families too...' [sic].

The panel also took into account Ms O'Connell's evidence which included a written reflective piece and a positive reference from her line manager dated 23 October 2023.

Decision and reasons on sanction

Having found Ms O'Connell's fitness to practise currently impaired on the grounds of public interest, 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 Sanctions Guidance (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 caused two claimants and their family's emotional distress and financial harm

The panel also took into account the following mitigating features:

- Incidents occurred within an overly pressurised working environment in which there was limited time to either review evidence or complete the expected number of assessments each day
- Incidents occurred within a working environment with insufficient levels of support
- Significant and ongoing IT issues contributed to the risk of inaccuracies occurring in PIP reports
- Demonstrated significant remorse and well-developed insight via an extensive reflective piece
- Demonstrated a strengthened practice by implementing significant learning. Including demonstrating examples where Ms O'Connell stood up for patient safety in difficult circumstances and advocated for their needs against pressure from senior staff
- Has been practicing as a registered nurse for six years with no restrictions nor concerns raised
- Has been promoted, internally, on multiple occasions following the charges
- Has fully engaged over a six-year period with the NMC
- Has apologised to the affected families
- Positive reference from current line manager dated 23 October 2023

The panel first considered whether to take no action but concluded that this would be inappropriate in view of its findings of impairment on public interest grounds and given the nature of the concerns.

Next, in considering whether a caution order would be appropriate in the circumstances, the panel took into account the SG, which states that *'a caution order is only appropriate if the Fitness to Practise Committee has decided there's no risk to the public or to patients requiring the nurse, midwife or nursing associate's practice to be restricted, meaning the case is at the lower end of the spectrum of impaired fitness to practise, however the Fitness to Practise committee wants to mark that the behaviour was unacceptable and must not happen again.'*

The panel noted that Ms O'Connell has shown insight and fully remediated her misconduct. The panel also noted that Ms O'Connell apologised to this panel for her misconduct, showing evidence of genuine remorse. The panel was also mindful of the challenging circumstances in which she was working in at the time of the incidents. Ms O'Connell has engaged with the NMC since referral, for six years. The panel has been told that there have been no adverse findings in relation to Ms O'Connell's practice either before or since these incidents.

The panel determined that, although the dishonesty element is serious, Ms O'Connell has remediated her dishonesty. The panel noted that Ms O'Connell has been promoted, internally, on multiple occasions, and has completed a considerable amount of learning which has been positively applied to her practice, both for the benefit of patients and people that she manages.

The panel considered whether it would be proportionate to impose a more restrictive sanction and looked at a conditions of practice order. The panel noted that Ms O'Connell has already been practising as a registered nurse, without restriction, for six years, with no concern. Given the panel's findings in that no public protection issues were found, the panel concluded that no useful purpose would be served by a conditions of practice order.

The panel further considered that of a suspension order and striking-off order. However, due to the particular circumstances of this case, and taking into account the relevant factors, which include Ms O'Connell's full remediation and the passage of time since the incidents, the panel concluded that the imposition of these orders would be wholly disproportionate. The panel determined that either temporary or full removal from the register would not be in the public interest as the public would expect a fully remediated practitioner to be permitted to practise.

The panel has decided that a caution order would adequately address the public interest. For the next two years, Ms O'Connell's employer - or any prospective employer - will be on notice that her fitness to practise had been found to be impaired, on the grounds of public interest alone, and that her practice is subject to this sanction.

Having considered the general principles above and looking at the totality of the findings on the evidence, the panel has determined that to impose a caution order for a period of two years would be the appropriate and proportionate response. It would mark not only the importance of maintaining public confidence in the profession, but also send the public and the profession a clear message about the standards required of a registered nurse.

In making this decision, the panel carefully considered the submissions of Mr Malik in relation to the sanction that the NMC was seeking in this case, namely a striking-off order. However, for the above reasons set out, the panel concluded that this would be a wholly disproportionate order.

At the end of this period the note on Ms O'Connell's entry in the register will be removed. However, the NMC will keep a record of the panel's finding that Ms O'Connell's fitness to practise had been found impaired. If the NMC receives a further allegation that Ms O'Connell's fitness to practise is impaired, the record of this panel's finding and decision will be made available to any practice committee that considers the further allegation.

This decision will be confirmed to Ms O'Connell in writing.

That concludes this determination.