

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

**Substantive Meeting
Monday, 26 June 2023**

Virtual Hearing

Name of Registrant: Penelope Jane Williams

NMC PIN 19G0444W

Part(s) of the register: Registered Nurse – Adult – RNA (September 2019)

Relevant Location: Wrexham

Type of case: Misconduct

Panel members: Adrian Blomefield (Chair, Lay member)
Carol Porteous (Registrant member)
David Newsham (Lay member)

Legal Assessor: John Donnelly

Hearings Coordinator: Max Buadi

Mrs Williams: Not present and not represented

Facts proved by admission: All

Facts not proved: None

Fitness to practise: Impaired

Sanction: Striking-off order

Interim order: Interim suspension order (18 months)

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that that the Notice of Meeting had been sent to Mrs Williams' registered email address by secure email on 22 May 2023.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegations, that it will take place on or after 26 June 2023 and the fact that this meeting was to be heard virtually.

In the light of all of the information available, the panel was satisfied that Mrs Williams has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

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

At the outset of the hearing, 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.

With this in mind the panel, of its own volition, considered whether Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules) should apply to the determination in this case to protect the interests of third parties.

The panel considered this at length and was conscious of the aforementioned third parties and the impact the case could have on them. However, it determined that open justice and the public interest in this case outweighs the consideration for this determination to be private.

Details of charge

That you, a registered nurse:

1. Between January 2021 and January 2022:
 - a. Entered into an intimate and/or sexual relationship with Patient A.
 - b. Communicated with Patient A via Facebook and/or on the telephone.
 - c. Met up with Patient A outside of the working environment.
2. Prior to 9 January 2022, did not tell your employer about your relationship with Patient A.
3. On the evening of 8/9 January 2022:
 - a. Failed to contact emergency services when Patient A became unwell.
 - b. Failed to contact emergency services after being prompted to by Colleague 1.
4. On 9 January 2022, incorrectly told a paramedic and/or a police officer that the reason you were at the scene was because Patient A had contacted you on Facebook to say he was unwell when this was incorrect.
5. On 17 February 2022 at a formal meeting with your employer and/or in your statement to your employer dated 30 January 2022, failed to give a full and accurate account of your relationship with Patient A.
6. By your omissions at charges 2 and/or 3 you intended to place your own interests ahead of the wellbeing of Patient A.
7. Your conduct at charge 4 was dishonest in that you intended to conceal the full extent of your relationship with Patient A.
8. Your conduct at charge 5 demonstrated a lack of integrity in that you were seeking to minimise the extent of your relationship with Patient A.

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

Background

On 7 June 2022 the Nursing and Midwifery Council ('NMC') received a referral from the Local Health Board ('the Health Board'). At the time of the concerns Mrs Williams was working for the Health Board as a Registered Nurse in the Renal Haemodialysis Unit ('the Unit'). She had worked there since October 2019.

One of the patients on the Unit was Patient A, who was a renal patient on regular dialysis. Patient A also had heart problems and spent lots of time on the Unit.

On the evening of 8 January 2022 Mrs Williams went to the house of one of her colleagues ('Colleague 1') who also worked on the Unit. Mrs Williams subsequently left Colleague 1's house after the evenings socialising. At 23:56 Colleague 1 received a phone call from Mrs Williams crying and distressed and asking for help as she tried to explain that someone had died. Colleague 1 advised Mrs Williams to call an ambulance.

Colleague 1 arrived at a car park in Wrexham where she met Mrs Williams. She could see a man in the back of a car who was Patient A. Colleague 1 went to check Patient A who was unresponsive so she called 999 asking for the police and ambulance as Mrs Williams had not already called for an ambulance which Colleague 1 had suggested during their phone call.

The 999 call handler advised Colleague 1 to perform CPR. Patient A subsequently died from heart failure and chronic kidney disease triggered by a medical episode. Mrs Williams stated to the police and paramedic in attendance that Patient A messaged her on Facebook explaining he was unwell and so she came to meet him. Later on 9 January 2022, Mrs Williams gave a different account as to how she was at the scene. In a statement to the police she revealed that she and Patient A were in a sexual relationship and that they had previously arranged to meet at the car park that evening.

On 17 February 2022 Mrs Williams had a formal meeting with the Health Board. She explained that she met with Patient A and sat at the back of his car for about 30-45 minutes just talking. Mrs Williams denied any sexual relationship. She further explained that Patient A started groaning and suddenly died.

The Health Board carried out a local disciplinary hearing on 19 May 2022. Mrs Williams admitted to having an intimate relationship with Patient A which she did not disclose to her employer. The Health Board panel also expressed concern that Mrs Williams did not call an ambulance following Patient A's collapse even when Colleague 1 advised her to. Mrs Williams was dismissed with immediate effect.

Decision and reasons on facts

The panel noted that Mrs Williams has not submitted a Case Management Form (CMF). However, it took account of an email, dated 26 October 2022, from Mrs Williams, which stated:

"I accept the regulatory concerns"

The panel bore in mind that the email pre-dates Mrs Williams receiving a full list of the charges. Further, it noted that Mrs Williams expressed a desire to have her case resolved by Consensual Panel Determination and a full list of the charges has subsequently been outlined to her. On this basis, the panel is satisfied that the Mrs Williams has made an informed decision to accept the regulatory concerns.

In light of this, the panel therefore finds all the charges proved in their entirety, by way of Mrs Williams' admissions.

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 Mrs Williams' 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.

Representations on misconduct and impairment

The panel had sight of the written submissions provided by the NMC which stated:

'Misconduct

The comments of Lord Clyde in Roylance v General Medical Council [1999] UKPC 16 may provide some assistance when seeking to define misconduct:

'[331B-E] Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rule and standards ordinarily required to be followed by a [nurse] practitioner in the particular circumstances'.

As may the comments of Jackson J in Calheam v GMC [2007] EWHC 2606 (Admin) and Collins J in Nandi v General Medical Council [2004] EWHC 2317 (Admin), respectively:

'[Misconduct] connotes a serious breach which indicates that the doctor's (nurse's) fitness to practise is impaired'.

And

'The adjective "serious" must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioner'.

Where the acts or omissions of a registered nurse are in question, what would be proper in the circumstances (per Roylance) can be determined by having reference to the Nursing and Midwifery Council's Code of Conduct.

The NMC Code

The relevant parts of the NMC code which the Panel are invited to consider is:

- 1.1 treat people with kindness, respect and compassion;*
- 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 [...]*
- 20.3 be aware at all times of how your behaviour can affect and influence the behaviour of other people;*
- 20.5 treat people in a way that does not take advantage of their vulnerability or cause them upset or distress;*
- 20.6 stay objective and have clear professional boundaries at all times with people in your care, their families and carers;*
- 20.8 act as a role model of professional behaviour for students and newly qualified nurses to aspire to.*

We consider the misconduct serious because guidance indicates that there are some concerns that are more difficult to put right. Dishonesty is one such concern.

Mrs Williams entered into an intimate relationship with Patient A and did not disclose this relationship to her employer during the formal interview in February 2022. Mrs Williams also denied her relationship to the police when she was questioned on the night of the incident. Mrs Williams's omission of her sexual relationship with Patient A put her own interests ahead of the wellbeing of Patient A. Mrs Williams's behaviour was a significant departure from the standards expected of a registered nurse. Her behaviour raised fundamental concerns about her

attitude as a registered professional so that restrictive action may be necessary to protect the public and maintain public confidence in the profession.

Impairment

The NMC's guidance explains that impairment is not defined in legislation but is a matter for the Fitness to Practise Committee to decide. 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.

Answering this question involves a consideration of both the nature of the concern and the public interest. In addition to the following submissions the panel is invited to consider carefully the NMC's guidance on impairment.

When determining whether the Registrant's fitness to practise is impaired, the questions outlined by Dame Janet Smith in the 5th Shipman Report (as endorsed in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin)) are instructive. Those questions were:

- 1. has [the Registrant] in the past acted and/or is liable in the future to act as so to put a patient or patients at unwarranted risk of harm; and/or*
- 2. has [the Registrant] in the past brought and/or is liable in the future to bring the [nursing] profession into disrepute; and/or*
- 3. has [the Registrant] in the past committed a breach of one of the fundamental tenets of the [nursing] profession and/or is liable to do so in the future and/or*
- 4. has [the Registrant] in the past acted dishonestly and/or is liable to act dishonestly in the future.*

It is the submission of the NMC that all questions can be answered in the affirmative in this case. Mrs Williams has acted to put patients at risk of harm by failing to contact emergency services when the patient became unwell and when prompted by her colleague. Mrs Williams has brought the nursing profession into disrepute and breached one of the fundamental tenets of the profession by engaging in an intimate relationship with a patient in breach of guidance on clear sexual boundaries. Mrs Williams has also acted dishonestly by not being truthful in response to questions by the police and a paramedic in order to keep her affair hidden from her colleague.

Impairment is a forward thinking exercise which looks at the risk the registrant's practice poses in the future. NMC guidance adopts the approach of Silber J in the case of R (on application of Cohen) v General Medical Council [2008] EWHC 581 (Admin) by asking the questions whether the concern is easily remediable, whether it has in fact been remedied and whether it is highly unlikely to be repeated.

We consider Mrs Williams has displayed limited insight into the concerns but that the insight is relatively recent given that initially she was not fully candid with either the police or her employer about her alleged behaviour. Mrs Williams accepts that she did not tell her employer about the relationship and appears to offer some justification by saying that 2 nurses had previously married patients.

Mrs Williams admitted to the allegations against her at a local level which demonstrates some remorse and insight into her actions. However, she has not demonstrated sufficient insight into the impact of her actions on patients, her colleagues, and the nursing profession. She is very remorseful but she has not fully reflected on the implications of the damage that having a relationship with a patient can do in relation to both public protection and upholding the reputation of the profession.

In light of the above concerns regarding the Registrant's dishonesty there remains a risk of repetition if permitted to practise unrestricted.

Public interest

In Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) at paragraph 74 Cox J commented that:

“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.”

Consideration of the public interest therefore requires the Fitness to Practise Committee to decide whether a finding of impairment is needed to uphold proper professional standards and conduct and/or to maintain public confidence in the profession.

In upholding proper professional standards and conduct and maintaining public confidence in the profession, the Fitness to Practise Committee will need to consider whether the concern is easy to put right. For example, it might be possible to address clinical errors with suitable training. A concern which hasn't been put right is likely to require a finding of impairment to uphold professional standards and maintain public confidence.

However, there are types of concerns that are so serious that, even if the professional addresses the behaviour, a finding of impairment is required either to uphold proper professional standards and conduct or to maintain public confidence in the profession.

We consider there is a public interest in a finding of impairment being made in this case to declare and uphold proper standards of conduct and behaviour. The Registrant's conduct engages the public interest because of the risk of unwarranted harm to patients.'

The panel accepted the advice of the legal assessor.

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, Mrs Williams' fitness to practise is currently impaired as a result of that misconduct.

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 Mrs Williams' actions did fall significantly short of the standards expected of a registered nurse, and that Mrs Williams' actions amounted to a breach of the Code. Specifically:

1 Treat people as individuals and uphold their dignity

To achieve this, you must:

1.1 treat people with kindness, respect and compassion

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

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

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

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

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

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that Mrs Williams' actions in this regard were extremely serious.

The panel bore in mind that Mrs Williams entered into an inappropriate sexual relationship with Patient A which she denied on numerous occasions to her employer and to the police on the night of the incident. It also noted that her behaviour as a result, especially during the incident was a significant departure from the standards expected from a registered nurse. Mrs Williams apparently could not identify the seriousness of the illness, did not call for an ambulance and placed Colleague 1 in a very precarious situation. Mrs Williams did not act as a registered nurse would be expected to in such circumstances and placed her own interest ahead of the wellbeing of Patient A who was vulnerable.

The panel also noted that Mrs Williams has been dishonest on numerous occasions, including the initial account of how she was at the scene that she gave to Colleague 1 and the emergency services and denying the nature of her relationship with Patient A in proceedings held by her employer. The panel concluded that her actions in respect of each of the charges, individually and collectively, fell significantly short of the conduct and standards expected of a nurse to amount to serious misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Mrs Williams' 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 to maintain professional boundaries. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* in reaching its decision. 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/their fitness to practise is impaired in the sense that S/He/They:

- 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.'*

For reasons already set out above in relation to misconduct, the panel considered that limbs a, b, c and d were engaged by Mrs Williams's misconduct in this case.

The panel concluded that Mrs Williams had in the past acted so as to put Patient A, who was a vulnerable patient, at unwarranted risk of harm. She failed to call emergency services when Patient A became ill and still did not contact them after she was prompted to do so by her colleague. The panel determined that her failings, namely the inappropriate relationship with Patient A and putting her own interest ahead of the wellbeing of Patient A breached fundamental tenets of nursing practice and is liable to bring the nursing profession into disrepute. In the panel's judgement, the public do not expect a nurse to act as Mrs Williams did as they require nurses to adhere at all times to the appropriate professional standards and to safeguard the health and wellbeing of patients.

The panel also noted that Mrs Williams was dishonest on numerous occasions. She was dishonest about the relationship with Patient A at the outset, she was dishonest to Colleague 1 and the police at the scene of the incident. Mrs Williams was initially dishonest with her employer during the subsequent internal investigation with her employer and continued to be dishonest about the sexual nature of the relationship which is documented in the police log dated 9 January 2022. The panel was of the view that Mrs Williams' dishonesty was continued, prolonged and maintained. 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 recognised that it must make an assessment of Mrs Williams' fitness to practise as of today. This involves not only taking account of past misconduct but also what has happened since the misconduct came to light and whether she would pose a risk of repeating the misconduct in the future.

The panel had regard to the principles set out in the case of *Ronald Jack Cohen v General Medical Council* [2008] EWHC 581 (Admin) and considered whether the concerns identified in Mrs Williams' nursing practice were capable of remediation, whether they have been remedied and whether there was a risk of repetition of a similar kind at some point in the future. In considering those issues the panel had regard to the nature and extent of the misconduct and considered whether Mrs Williams had provided evidence of insight and remorse.

The panel bore in mind that in an email dated 26 October 2022, Mrs Williams accepted the regulatory concerns. However, it noted in her reflective statement following this, Mrs Williams appears to focus on the incident and what happened. There was no recognition of the impact her actions had on Patient A, Colleague 1 and the nursing profession. Additionally, there was no recognition as to how this would be seen by the public.

Mrs Williams also appears to justify her relationship with Patient A, by stating that nurses had previously married patients. However, the panel noted that she was not straightforward with her employers and did not inform them about the relationship at the outset.

While Mrs Williams does demonstrate some remorse, she has not demonstrated the impact her actions have had on Patient A or his family.

The panel recognise that Mrs Williams' reflections are nine months old, however in these circumstances, a further reflective statement is unlikely to make a difference.

In light of the above, the panel determined that Mrs Williams had demonstrated no insight.

The panel was satisfied that the misconduct in this case is not capable of being addressed. Misconduct involving dishonesty is often said to be less easily remediable than other kinds of misconduct. In the panel's judgment, evidence of insight, remorse and reflection together with evidence of subsequent and previous integrity are all relevant in considering the risk of repetition, as is the nature and duration of the dishonesty itself.

The panel reminded itself of the advice of the legal assessor and recognised that there are varying degrees of dishonesty. It was of the view that the dishonesty in this case was not an isolated incident and was prolonged, maintained, and repeated. The panel considered the dishonesty found to be very serious, evidence of an attitudinal problem and contrary to maintaining proper professional standards.

The panel concluded that in the absence of any insight from Mrs Williams and her lack of remediation there remains a risk of repetition of the misconduct found proved. The panel

therefore determined that a finding of impairment is necessary on the grounds of public protection.

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

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.'

The panel was satisfied that having regard to the nature of the misconduct in this case, *"the need to uphold proper professional standards and public confidence in the profession would be undermined"* if a finding of current impairment were not made. A fully informed member of the public would be concerned by Mrs Williams' misconduct should she be permitted to practice as a registered nurse in the future without restriction.

Having regard to all of the above, the panel was satisfied that Mrs Williams' fitness to practise is currently impaired on grounds of public protection and public interest.

Sanction

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike Mrs Williams off the register. The effect of this order is that the NMC register will show that Mrs Williams has been struck-off the register.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

Representations on sanction

The panel had sight of the written submissions provided by the NMC which stated:

'Sanction

The NMC sanctions guidance on dishonesty is relevant here. It notes that concerns will be particularly serious if there is a direct risk to patients and vulnerable victims. It also goes on to say that the level of risk to patients will be an important factor, but a panel of the Fitness to Practise Committee ('FtPC') should also consider that generally, dishonesty will always be serious because of the importance of honesty to a nurse.

With regard to the NMC's sanctions guidance the following aspects have led us to this conclusion and looking at each of the sanctions in turn:

No action or a caution order

Taking into account our sanction guidance SAN-3a and SAN-3 the case is too serious for taking no action or a caution order. The Registrant's conduct clearly presents a continuing risk to patients and undermined the public's trust in nurses. A caution order is only appropriate if there is no risk to the public or to patients requiring a nurse, midwife or nursing associate. Therefore, these sanctions are not sufficient to ensure public protection.

Conditions of practice

This sanction would not be appropriate to address the concerns given that there is evidence that the Registrant's behaviour could be as a result of deep-seated

personality or attitudinal problems. There are no concerns related to the Registrant's clinical practice and therefore this sanction would not properly address the concerns in this case.

A suspension order

Taking into account our sanction guidance SAN-3d, a suspension order is appropriate where a Registrant has insight and does not pose a risk of repeating behaviour. In this case the Registrant's relationship with the patient went on for a number of months and was only discovered due to the patient becoming unwell. The question is whether a suspension order would be appropriate. We consider it would not be in light of the fact that there could be said to be deep seated attitudinal issues and this was not a single instance of misconduct.

A striking-off order

A striking off order (SAN-3e) is likely to be appropriate when what the Registrant has done is fundamentally incompatible with being a registered professional. The NMC's guidance on seriousness is relevant as well as the PSA guidance on sexual boundaries. The NMC guidance notes that the panel should consider that generally, sexual misconduct will be likely to seriously undermine public trust in nurses, and that in cases about serious sexual misconduct the panel will very often find in cases of this kind that the only proportionate sanction will be to remove the nurse from the register.

The guidance on dishonesty is also relevant. It states that the forms of dishonesty which are most likely to call into question whether a nurse should be allowed to remain on the register includes incidents involving a deliberate breach of the professional duty of candour by covering up when things have gone wrong, especially if it could cause harm to patients.

As the concern is difficult to address or put right and constituted a very serious breach of professional boundaries, the NMC submit that a sanction of a striking-off order is the appropriate and minimum necessary sanction in all the circumstances.

This would properly reflect the Registrant's sexual misconduct and dishonest behaviour.'

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- Lack of insight into the failings;
- Protracted dishonesty over period of time which was premeditated and long standing;
- Mrs Williams deliberately breached her professional duty of candour;
- Abuse of a position of trust;
- A pattern of misconduct over a period of time
- Conduct which put a vulnerable Patient A at risk of suffering harm.
- Failure to engage with the NMC.

The panel found there to be no mitigating features in the circumstances of this case.

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

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mrs Williams' practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour*

was unacceptable and must not happen again.' The panel considered that Mrs Williams' misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mrs Williams' registration would be a sufficient and appropriate response.

The panel bore in mind that it had found that Mrs Williams' behaviour demonstrated deep-seated attitudinal problems. 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 panel bore in mind that it found that Mrs Williams had no insight and it had no evidence of remediation relating to the dishonesty. Additionally, the panel was of the view that neither the misconduct nor the dishonesty identified in this case was something that can be addressed via conditions of practice. Furthermore, the panel concluded that the placing of conditions on Mrs Williams' registration would not adequately address the seriousness of this case and would not protect the public.

The panel then went on to consider whether a suspension order would be an appropriate sanction. It bore in mind that it had found that this was not an isolated incident of misconduct and identified deep seated attitudinal problems. Additionally, it found that Mrs Williams had no insight and identified a risk of repetition.

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

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

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

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

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

The panel also took account of the NMC Guidance "Considering sanctions for serious cases" which stated:

Cases involving dishonesty

The most serious kind of dishonesty is when a nurse, midwife or nursing associate deliberately breaches the professional duty of candour to be open and honest when things go wrong in someone's care.

However, because of the importance of honesty to a nurse, midwife or nursing associate's practice, dishonesty will always be serious.

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

- *deliberately breaching the professional duty of candour by covering up when things have gone wrong, especially if it could cause harm to patients*
- *misuse of power*
- *vulnerable victims*
- *personal financial gain from a breach of trust*

- *direct risk to patients*
- *premeditated, systematic or longstanding deception*

The panel was satisfied that all but “misuse of power” and “personal financial gain from a breach of trust” bullet points were engaged in this case.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the matters it identified, in particular the effect of Mrs Williams’ actions in bringing the profession into disrepute by adversely affecting the public’s view of how a registered nurse should conduct herself, the panel has concluded that nothing short of this would be sufficient in this case.

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

This will be confirmed to Mrs Williams in writing.

Interim order

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

Representations on interim order

The panel took account of the representations made by the NMC:

‘If a finding is made that the registrant’s fitness to practise is impaired on a public protection basis and a restrictive sanction imposed we consider an interim order in

the same terms as the substantive order should be imposed on the basis that it is necessary for the protection of the public and otherwise in the public interest.

If a finding is made that the registrant's fitness to practise is impaired on a public interest only basis and that their conduct was fundamentally incompatible with continued registration we consider an interim order of suspension should be imposed on the basis that it is otherwise in the public interest.'

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.

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

That concludes this determination.