

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

**Substantive Hearing
Monday, 6 November 2023 –
Thursday, 9 November 2023**

Virtual Hearing

Name of Registrant: Benjamin John Appleton

NMC PIN 20D1647E

Part(s) of the register: Registered Nursing Associate
All NAR – September 2020

Relevant Location: Worcestershire County

Type of case: Misconduct

Panel members: John Vellacott (Chair, Lay member)
Frances Clarke (Registrant member)
James Kellock (Lay member)

Legal Assessor: Alain Gogarty

Hearings Coordinator: Xenia Menzl

Nursing and Midwifery Council: Represented by Shoba Aziz, Case Presenter

Mr Appleton: Present and represented by Liam Chin, Counsel

Facts proved by admission: Charges 1a), b), 2

Fitness to practise: Impaired

Sanction: Condition of Practice Order (12 months) with review

Interim order: Interim Conditions of Practice Order (18 months)

Details of charge

That you, a registered nursing associate:

- 1) Between 14 August 2020 and 31 December 2021 breached professional boundaries in that you:
 - a) Sent messages to and exchanged messages with Patient A without clinical reason.
 - b) Sent photographs to and exchanged photographs with Patient A which were inappropriate.
- 2) Your intentions were sexual in that you expressed your desire to have sexual relations with Patient A.

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

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

Mr Chin made a request that part of this case be held in private on the basis that you will be referring to your health during your evidence. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Ms Aziz did not object to the application.

The panel heard and accepted the advice by the legal assessor.

Having heard that there will be reference to your health during your evidence, the panel determined to hold those parts of the hearing in private in order to protect your privacy.

Background

The charges arose whilst you were employed as a nursing associate by Worcestershire Acute Hospital (the Hospital).

Between the end of 2019 and the start of 2020 you met Patient A at a social event. You subsequently provided some care to Patient A in August 2020. [PRIVATE].

You later searched for Patient A on Facebook and communicated with them through messenger. There was a period of several weeks when numerous messages were exchanged between you and Patient A. There was an escalation in the messages to the stage where some highly suggestive sexual messages and pictures were exchanged. The messages stopped after 1 October 2020 apart from casual contact in June and December 2021.

[PRIVATE] Patient A was again admitted to the Hospital which is when she disclosed the messages between you to other staff.

You voluntarily provided the Hospital with the messages without which the NMC may find it difficult to prove its case, and were suspended whilst an investigation took place.

Decision and reasons on facts

At the outset of the hearing, the panel heard from Mr Chin, who informed the panel that you made full admissions to all charges.

The panel therefore finds charges 1a) 1b) and 2 proved in their entirety, by way of your admissions.

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

- Nurse 1: Matron, Worcestershire Acute Hospitals NHS Trust;
- Nurse 2: Matron, Case Investigator, Worcestershire Acute Hospitals NHS Trust.

The panel also heard evidence from you under affirmation.

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.*'

Ms Aziz 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. Ms Aziz reminded the panel that you accepted misconduct.

Submissions on impairment

Ms Aziz moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Ms Aziz submitted that you have only recently accepted that Patient A was vulnerable and only admitted so in your oral evidence during this hearing. Your behaviour violated professional standards and compromised patient safety. Your ability to practise safely and effectively had been impacted and you have not shown insight into your misconduct.

Ms Aziz submitted that whilst you had meetings with your manager there were no reports or reflections from these meetings nor does the panel have information about the specific conduct that has been discussed in regard to the incident. Whilst you admit your actions and the breach of boundaries you do not accept the seriousness of this. She submitted that you stated that you had met Patient A during a night out prior to them being a patient.

However, you did not exchange details or have any kind of subsequent contact. Up until today you claimed that due to having previously met Patient A there was some kind of relationship. Ms Aziz argued that there was no relationship in advance of these events and it was not appropriate to send Patient A a message on social media.

Ms Aziz submitted that whilst you have taken a course on professional boundaries you have still not addressed the specific misconduct, which was explicit in nature and which took place over the span of a year.

Ms Aziz submitted that the first three limbs of *Grant* were engaged. You caused distress to Patient A, who complained to a number of members of staff about your messages. Your behaviour brought the profession into disrepute as you breached professional boundaries and went against the NMC Code of conduct. The public's confidence in the profession would be undermined if they were to learn about the indecent messages.

Ms Aziz submitted that the misconduct in your case was serious as whilst it did not directly relate to your care as a nursing associate, it questions the basis of your professionalism. She invited the panel to find that your fitness to practise is currently impaired on public protection grounds and that it was also otherwise in the public interest.

Mr Chin reminded the panel that you had admitted the factual charges and that your actions amounted to misconduct at the outset of the hearing. Mr Chin took the panel to your significant reflection you have undertaken since August 2022, however, you had started to reflect on your actions long before that in early 2021. He submitted that you reflected on [PRIVATE] and your professional conduct. You have also taken remedial action and enrolled yourself on continued professional development courses. You wish to attend further professional development courses once you are able to work unrestricted.

Mr Chin submitted that in your evidence you were able to give detailed insight into the impact your actions had on the public confidence, the profession and the impact it may have had on Patient A and their family. You were able to explain how you have developed

as a person and how you took almost immediate action to rectify the situation. You were also able to explain how you would behave in the future should the same set of circumstances arise again.

Mr Chin reminded the panel of your evidence and the stresses you, and the whole medical profession, were under from 2019 onwards due to the Covid-19 pandemic. You also gave details of a similar situation, in relation to a different patient, where you acted with the utmost of professionalism. You gave evidence that your judgement was clouded at the time of your misconduct which occurred in an otherwise unblemished career.

Mr Chin submitted that you have expressed extreme remorse and that you would never want to put anyone in those circumstances again, including patients and their families, professional colleagues and any member of the public. You accept your failings and your misconduct and that it amounted to serious professional misconduct.

Mr Chin invited the panel to find that, in light of the sincere remorse, remediation, insight, reflection, training and the previous and subsequent good practice, there was no risk of repetition. He referred the panel to the references provided on your behalf from patients and their family members as well as the witnesses' oral evidence which attest to the quality of your professionalism. He submitted that you have been practising under interim conditions of practice and there has been no further misconduct. Mr Chin therefore submitted that a finding of impairment to protect the public was not necessary.

Mr Chin submitted that it was in the public interest to allowing a good nursing associate to return to unrestricted practise. You have consistently demonstrated competence, professionalism and adherence to the professional standards throughout your career. You have been working under conditions for some time without further incident. You have cooperated with the internal as well as the NMC investigation and have been maintaining the integrity of the profession since the incidents. Mr Chin submitted that a finding of impairment on the ground of public interest was not required as the misconduct was

sufficiently marked by the finding of misconduct and the previous suspension by your employer and the interim conditions of practice order.

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 determined that your actions did fall significantly short of the standards expected of a registered nursing associate, and that your actions amounted to a breach of the Code. Specifically:

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

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*

20.10 use all forms of spoken, written and digital communication (including social media and networking sites) responsibly, respecting the right to privacy of others at all times

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 you messaged a patient, who was vulnerable because she had been in hospital and had been in your care, over a period of time. These messages escalated in their nature and ended in sexualised content including suggestive photographs. The panel was of the view that this breached professional boundaries, fell short of what is expected of a registered nursing associate and amounted to serious misconduct.

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.’

Nursing associates 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 nursing associates with their lives and the lives of their loved

ones. To justify that trust, 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) [...]'

The panel finds that you put Patient A put at a potential risk of 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.

Regarding insight, the panel considered that you made admissions at the outset of the hearing and have cooperated with the internal as well as the NMC investigation. Your cooperation included providing the messages to your employer. It acknowledged that you were open about your personal circumstances at the time and how they affected your behaviour. However, the panel noted that it did not have any records of your subsequent reflective discussions with your manager before it. Your statement, dated 1 November 2023, was more of an account of the incident rather than a reflection. In the it you state '*I deny that the patient was a vulnerable patient at the time*'. You have shown general insight into why breaching professional boundaries is misconduct, what you did was wrong and how this impacted negatively on the reputation of the nursing profession. However, you were not able to give adequate insight into the risks to and possible impact on Patient A, their family or yourself. The panel noted that you did not have any training on professional boundaries before the incident with Patient A, however, in your evidence you described a similar situation, predating your misconduct, with another patient where you set clear professional boundaries. The panel was of the view that you were not able to fully explain why you acted differently then and what the factors were that led to you breaching professional boundaries with Patient A. It therefore determined that you have shown developing insight.

The panel was satisfied that the misconduct in this case is capable of being addressed. Therefore, the panel carefully considered the evidence before it in determining whether or not you have taken steps to strengthen your practice. The panel have taken your willingness to strengthen your practise into account. It noted that you have undertaken further professional development and have been meeting regularly with your supervisor. However, the panel had not had any documentation in relation to these meetings. The

panel took note of the excellent references from relatives of patients you looked after and noted that they attested to your very friendly nature. However, the panel concluded that it had no evidence before it to demonstrate that you understand how to keep the line between work and your private life clear and how you would act if you were attracted to another patient. The panel was therefore of the view that you have not yet demonstrated that you have strengthened your practice.

Therefore, the panel is of the view that there is a risk of repetition. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel determined that a finding of impairment on public interest grounds is also required to promote and maintain public confidence in the nursing and midwifery professions and uphold proper professional standards. A reasonable and informed member of the public, in the panel's judgement, would be shocked if a finding were not made in circumstances where a nursing associate had sent a recent patient messages and photographs which were inappropriate and where your intentions were sexual and that you expressed your desire to have sexual relations with that patient.

The panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds your fitness to practise impaired 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.

Sanction

The panel has considered this case very carefully and has decided to make a conditions of practice order for a period of 12 months. The effect of this order is that your name on the NMC register will show that you are subject to a conditions of practice order and anyone who enquires about your registration will be informed of this order.

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 including the Professional Standards Authority (PSA) guidance on clear sexual boundaries between health care professionals and patients. The panel accepted the advice of the legal assessor.

Submissions on sanction

Ms Aziz referred the panel to the SG and relevant case law. She outlined what she submitted were the aggravating features of the case. The aggravating features include an abuse of a position of trust, a lack of insight into your failings, a pattern of misconduct over a period of time and conduct which put a patient at risk of suffering harm. Your misconduct was deliberate, persistent and prolonged. She submitted that there were few mitigating features and that the aggravating features outweighed these.

Ms Aziz submitted that it was unclear whether you sought to remedy your failings in any way, the breach of professional boundaries persisted for a long period of time and involved a vulnerable patient subjecting Patient A to a risk of serious harm.

Ms Aziz submitted that taking no further action or a caution order were not suitable as the public would not be protected and the concerns were too serious. There are no identifiable clinical concerns and therefore a conditions of practice order would not be workable or measurable nor would it address the seriousness of the case.

Ms Aziz submitted that a suspension order was also not the appropriate order in this case as the concerns were regarding a series of messages over several weeks. Whilst you have reflected on your actions you have not been able to provide sufficient insight on the potential effect your misconduct had on Patient A. You further sought to justify your behaviour by claiming that you had previously met Patient A socially, however, by your own account you never exchanged contact details nor did you have any contact with Patient A until you cared for them in hospital. Ms Aziz submitted that it cannot be said that you were friends before the breach of professional boundaries took place. Your actions raise fundamental questions about your professionalism and public confidence cannot be maintained were you not removed from the register. Your misconduct was a significant departure from the standards expected of a registered nursing associate and is fundamentally incompatible with remaining on the register. Ms Aziz therefore invited the panel to impose a striking off order.

Mr Chin reminded the panel that it had found that your misconduct was remediable. You have been practising under an interim conditions of practice order for 12 months and no issues have been reported. Your matron, Nurse 1, stated that there were no issues with your practice. You have also declared a willingness to strengthen your practice, have already been undertaking professional development and wish to continue to do so. You are regularly reflecting on your conduct with your supervisor. You have provided the panel with positive testimonies from colleagues and patient's family members stating that you are a hard working nursing associate who shows empathy, good judgement and are clearly caring in nature.

Mr Chin submitted that a conditions of practice order would be the appropriate sanction in this case. This would allow you to continue on your path of remediation, continue your professional development, reflect on your misconduct, gain respect and trust, and learn from your colleagues. All this whilst being supervised as you continue on your pathway to full nursing practice. It would also mean that the NMC continue to have oversight of your practise, for example learning if there were any future concerns.

Mr Chin therefore invited the panel to impose a conditions of practice order to allow you to continue to gain insight and achieve your ambition of safe practice in order to restore the public's confidence in the profession. A suspension order or a strike off order would be disproportionate in these circumstances.

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- You put a patient at a potential risk of harm; and
- Inappropriate communications and pictures of your body, some of which were sexual in nature.

The panel also took into account the following mitigating features:

- Early admissions and cooperation with the local as well as the NMC investigation, including providing screenshots of the conversation when Patient A did not wish to provide them;
- Developing insight and willingness to strengthen practice;
- Some personal mitigation, [PRIVATE];
- Working in a pressured environment during Covid;
- You had not undergone specific training on professional boundaries at that time; and

- The misconduct partially occurred whilst you were not yet registered with the NMC and very early in your career as a registered nursing associate.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case, and the public protection issues identified. 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 your 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 your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

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

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *Identifiable areas of the nurse or midwife’s practice in need of assessment and/or retraining;*
- *No evidence of general incompetence;*
- *Potential and willingness to respond positively to retraining;*
- *Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- *The conditions will protect patients during the period they are in force; and*

- *Conditions can be created that can be monitored and assessed.*

The panel had found that all the above criteria for the making a conditions of practice order were present in this case.

The panel began by reminding itself of the facts found proved and the evidence it had been given. The panel also had regard to the SG for cases involving sexual misconduct as well as the PSA guidance mentioned above and in its judgement the specific facts in this case did not amount to serious sexual misconduct, for which a striking off order would often be the proportionate sanction. Whilst some of your messages referred to your desire to have a physical relationship with Patient A, this did not develop into one. However, whilst the exchange of messages and pictures, some of yours were sexually suggestive, between you and Patient A was a mutual exchange, that did not absolve you from your duty to uphold professional boundaries. The exchange predominantly took place between 14 August and 1 October 2020.

The panel determined that a conditions of practice order in the terms set out below would enable you to complete your developing insight and at the same time would adequately protect the public and address the public interest. The panel accepted that you would be willing to comply with conditions of practice. It noted that you have been practising safely under an interim conditions of practice order for several months and have benefited from your fortnightly discussions in relation to professional boundaries. Your matron was happy with your conduct and had no concerns regarding your conduct or your clinical practice. You also provided positive testimonials from colleagues and patient's family members. The panel was of the view that it was in the public interest that, with appropriate safeguards, you should be able to return to practise as a nursing associate.

Balancing all of these factors, the panel determined that the appropriate and proportionate sanction is a conditions of practice order.

The panel was of the view that to impose a suspension order or a striking-off order would be wholly disproportionate and would not be a reasonable response in the circumstances of your case because of the nature of the misconduct and you have demonstrated that you started your journey on developing your insight. Your matron was and continues to be wholly supportive of you and there have been no further concerns regarding your conduct or your professional boundaries. You continue to enjoy her trust and confidence. The panel was of the view that it would not be in the public interest to remove a capable nursing associate from practising, whether completely or temporarily.

Having regard to the matters it has identified, the panel has concluded that a conditions of practice order will mark the importance of maintaining public confidence in the profession and will send to the public and the profession a clear message about the standards of practice required of a registered nursing associate.

The panel determined that the following conditions are appropriate and proportionate in this case:

'For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.

1. You must limit your practice to employment with the Worcestershire NHS Trust.
2. You must ensure that you are supervised by a registered nurse any time you are working. Your supervision must consist of:
 - a) Working at all times on the same shift as, but not always directly observed by a registered nurse

- b) Monthly meetings with your line manager/mentor/supervisor consisting of a reflective discussion to discuss relevant case load and understanding of professional boundaries.
- 3. You must send a report from your line manager/mentor/supervisor to your NMC case officer, ahead of any review or meeting outlining your monthly discussions.
- 4. You must keep a reflective practice profile. The profile will contain:
 - a) A detailed written reflection on the situation in the charges found proved using a recognised model such as Gibbs' Reflective Cycle
 - b) Evidence of a reflective discussion with a senior nurse to discuss the above
- 5. You must keep us informed about anywhere you are working by:
 - a) Telling your case officer within seven days of accepting or leaving any employment.
 - b) Giving your case officer your employer's contact details.
- 6. You must keep us informed about anywhere you are studying by:
 - a) Telling your case officer within seven days of accepting any course of study.
 - b) Giving your case officer the name and contact details of the organisation offering that course of study.
- 7. You must immediately give a copy of these conditions to:
 - a) Any organisation or person you work for.
 - b) Any employers you apply to for work (at the time of application).

- c) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.

8. You must tell your case officer, within seven days of your becoming aware of:
 - a) Any clinical incident you are involved in.
 - b) Any investigation started against you.
 - c) Any disciplinary proceedings taken against you.

9. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:
 - a) Any current or future employer.
 - b) Any educational establishment.
 - c) Any other person(s) involved in your retraining and/or supervision required by these conditions

The period of this order is for 12 months. In the panel's judgement this should be sufficient time for you to develop your insight to a satisfactory degree and to acquire evidence from your professional colleagues about your insight, how you have strengthened your practice and how you would handle a situation were you attracted to a patient in the future.

Before the order expires, a panel will hold a review hearing to see how well you have complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Your continued engagement and your attendance at the review hearing;

- Testimonials, from any paid or unpaid work.

This will be confirmed to you in writing.

Interim order

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

Submissions on interim order

The panel took account of the submissions made by Ms Aziz. She submitted that an interim order is necessary to protect the public for the reasons identified by the panel earlier in their determination until the substantive conditions of practice order comes into effect. She therefore invited the panel to impose an interim conditions of practice order for a period of 18 months to cover the 28 day appeal period and any period of appeal.

Mr Chin agreed with this application.

Decision and reasons on interim order

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest, so as to maintain public confidence in the profession and its regulatory process. In reaching a decision to impose an interim order the panel had regard to facts found proved, to the risk which it had identified of potential harm to patients and the reasons set out in its decision for the substantive order. The

panel took account of the impact, financial and professional, an interim order will have on you.

The panel concluded that the only suitable interim order would be that of a conditions of practice order, as to do otherwise would be incompatible with its earlier findings. The conditions for the interim order will be the same as those detailed in the substantive order. The period of this order is 18 months, to allow for the time which may elapse before an appeal may be heard.

The panel is satisfied that this order, for this period, is appropriate and proportionate in the circumstances of your case.

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

That concludes this determination.