

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

**Substantive Hearing  
Wednesday 22 November 2023 – Tuesday, 28 November 2023**

Virtual Hearing

and

Physical Hearing

Nursing and Midwifery Council  
2 Stratford Place, Montfichet Road, London, E20 1EJ

<b>Name of Registrant:</b>	<b>Sarah Harris</b>
<b>NMC PIN</b>	07G0444E
<b>Part(s) of the register:</b>	Registered Nurse – Sub Part 1 Adult Nursing – 19 March 2008
<b>Relevant Location:</b>	Southwark
<b>Type of case:</b>	Misconduct
<b>Panel members:</b>	Penelope Titterington (Chair, Lay member) Jillian Claire Rashid (Registrant member) Robert Fish (Lay member)
<b>Legal Assessor:</b>	Justin Gau (22 November 2023- 24 November 2023) Gelaga King (27 November 2023- 28 November 2023)
<b>Hearings Coordinator:</b>	Samantha Aguilar
<b>Nursing and Midwifery Council:</b>	Represented by Raj Joshi, Case Presenter
<b>Mrs Harris:</b>	Present and represented by Alex Lawson, instructed by the Royal College of Nursing (RCN)
<b>Facts proved by admission:</b>	Charges 1, 1(a), 1(b)(i), 1(b)(ii), 1(b)(iii), 2, 2(a),

2(b), 2(c)

**Fitness to practise:**

Impaired

**Sanction:**

**Striking-off order**

**Interim order:**

**Interim suspension order (18 months)**

## Details of charge

That you, a registered nurse:

1) Between April 2020 and December 2020:

- a) Used Guy's and St Thomas' NHS Foundation Trust ('the Trust') cost code system to book a taxi to transport you home from work on one or more of the dates set out in Schedule A; **[FOUND PROVED BY ADMISSION]**
- b) Booked one or more of the taxis at charge 1.a. using:
  - i) an address other than your own; **[FOUND PROVED BY ADMISSION]**
  - ii) a name other than your own; **[FOUND PROVED BY ADMISSION]**
  - iii) one or more details of a patient who had been treated by the Trust. **[FOUND PROVED BY ADMISSION]**

2. Some or all of your actions at charge 1 were dishonest because:

- a) You knew that your use of the Trust cost code at charge 1.a. had not been authorised; **[FOUND PROVED BY ADMISSION]**
- b) You intended to create the misleading impression that the taxis had been booked for patients; **[FOUND PROVED BY ADMISSION]**
- c) You intended to conceal the fact that you were using the Trust cost code to pay for your own taxi journey home. **[FOUND PROVED BY ADMISSION]**

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

## Schedule A

i.	8 April 2020	xxx.	4 June 2020
ii.	9 April 2020	xxxi.	5 June 2020
iii.	14 April 2020	xxxii.	8 June 2020
iv.	15 April 2020	xxxiii.	9 June 2020
v.	16 April 2020	xxxiv.	11 June 2020
vi.	17 April 2020	xxxv.	12 June 2020
vii.	20 April 2020	xxxvi.	15 June 2020
viii.	22 April 2020	xxxvii.	16 June 2020
ix.	23 April 2020	xxxviii.	18 June 2020
x.	27 April 2020	xxxix.	19 June 2020
xi.	28 April 2020	xl.	22 June 2020
xii.	29 April 2020	xli.	23 June 2020
xiii.	1 May 2020	xlii.	24 June 2020
xiv.	4 May 2020	xliii.	25 June 2020
xv.	5 May 2020	xliv.	29 June 2020
xvi.	7 May 2020	xlv.	30 June 2020
xvii.	11 May 2020	xlvi.	2 July 2020
xviii.	12 May 2020	xlvii.	3 July 2020
xix.	14 May 2020	xlviii.	6 July 2020
xx.	15 May 2020	xlix.	7 July 2020
xxi.	18 May 2020	l.	9 July 2020
xxii.	19 May 2020	li.	13 July 2020
xxiii.	21 May 2020	lii.	14 July 2020
xxiv.	22 May 2020	liii.	16 July 2020
xxv.	26 May 2020	liv.	17 July 2020
xxvi.	28 May 2020	lv.	20 July 2020
xxvii.	29 May 2020	lvi.	21 July 2020
xxviii.	1 June 2020	lvii.	23 July 2020
xxix.	2 June 2020	lviii.	24 July 2020
xxx.	4 June 2020	lix.	27 July 2020
		lx.	28 July 2020

lxi.	30 July 2020	lxxxvii.	20 October 2020
lxii.	3 August 2020	lxxxviii.	21 October 2020
lxiii.	4 August 2020	lxxxix.	22 October 2020
lxiv.	5 August 2020	xc.	4 November 2020
lxv.	6 August 2020	xcı.	5 November 2020
lxvi.	10 August 2020	xcıı.	9 November 2020
lxvıı.	11 August 2020	xcııı.	10 November 2020
lxvııı.	13 August 2020	xcıv.	11 November 2020
lxıx.	14 August 2020	xcv.	12 November 2020
lxx.	10 September 2020	xcvı.	16 November 2020
lxxı.	14 September 2020	xcvıı.	17 November 2020
lxxıı.	24 September 2020	xcvııı.	18 November 2020
lxxııı.	28 September 2020	xcıx.	19 November 2020
lxxıv.	29 September 2020	c.	23 November 2020
lxxv.	30 September 2020	cı.	24 November 2020
lxxvı.	1 October 2020	cıı.	25 November 2020
lxxvıı.	5 October 2020	cııı.	26 November 2020
lxxvııı.	6 October 2020	cıv.	30 November 2020
lxxıx.	6 October 2020	cv.	1 December 2020
lxxx.	7 October 2020	cvı.	2 December 2020
lxxxı.	8 October 2020	cvıı.	3 December 2020
lxxxıı.	12 October 2020	cvııı.	8 December 2020
lxxxııı.	13 October 2020	cıx.	9 December 2020
lxxxıv.	14 October 2020	cx.	10 December 2020
lxxxv.	15 October 2020	cxı.	14 December 2020
lxxxvı.	19 October 2020	cxıı.	17 December 2020

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

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

Dr Joshi on behalf of the Nursing and Midwifery Council (NMC) indicated that he supported the application to the extent that any references 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.

The panel determined to go into private session in connection with [PRIVATE] as and when such issues are raised.

## **Background**

[PRIVATE].

The current charges arose whilst you were employed as the lead for the Discharge Lounge at St Thomas' Hospital (the Hospital). You were a Band 6 Registered Nurse and had worked for Guy's and St Thomas' NHS Foundation Trust (the Trust) for about 10 years. When working in the Discharge Lounge, your role involved managing a small team of Healthcare Assistants who facilitated the discharge of patients who no longer needed to

be on the ward. Between 1 April 2020 and July 2020, you had acted up in a Band 7 position.

From April 2020 to December 2020, during your employment and the first wave of the COVID-19 pandemic, you made 112 taxi bookings home from work using false details which concealed the fact that you were booking the taxi journeys for yourself. On 11 of those occasions, you used the details of patients and hospital numbers who had been treated by the Trust. These journeys were all charged to the Trust's cost centres without any formal authorisation from management, each journey cost around £42. These journeys were all booked using your mobile number. Different addresses were used for journeys to Bromley, all near to where you lived. The total cost of taxis booked amounted to £5,198.40.

You initially denied the allegations when confronted. However, within 24 hours you admitted your actions. During the Trust's investigation, you stated that the reason for your actions was that you did not want to use public transport and be around people during the COVID-19 pandemic. You did not speak to anyone in the Trust about your [PRIVATE] regarding using public transport to get home.

You were dismissed by the Trust at a disciplinary hearing on 13 May 2021.

The panel noted what you have to say about why you committed this fraud.

The panel saw documentary evidence of the following:

On 22 December 2020, you wrote a statement admitting the fraud to your manager for the first time. Within it, you said that you *'booked a taxi on a number of occasions. I did this due to wanting to travel separately from the public which is not excusable'*. You further stated that you had *'used poor judgment and showed a lack of integrity'* and accepted that you had been *'completely dishonest'* and offered to repay the money owed. You said:

*'At the time, I did not understand the severity of this situation and I lacked good judgement on this and this is why I am being open, honest and transparent as I want to make things right.'*

On 29 January 2021, you were interviewed under caution in the presence of your lawyer. You admitted using taxis home for your own personal use and said you did so because you were concerned and [PRIVATE] and wanted to get home safely to [PRIVATE] however made *'poor judgments'*. You accepted in the interview that you had a one-to-one with your line manager in September 2020 and despite bringing up work related issues, admitted that you had not made him aware of your concerns for your personal safety and travelling from work. You had also received an email from your line manager offering you a COVID-19 risk assessment in October 2020, but you stated, *'I had one done with [PRIVATE] and I have no concerns'*.

On 17 February 2021, you were interviewed in a disciplinary hearing, you had an RCN representative with you. You stated that you had taken taxis due to a *'lack of good judgment'* describing it as a *'silly decision'*, *'inexcusable'* and *'careless'*. You went on to say that you had not done anything like this before in your life and had *'no record'*.

In an undated document headed *'Incident Reflection'*, clearly drafted after you were dismissed from the Trust:

*'I did this due to wanting to travel separate from the public and keeping safe to get home to [PRIVATE]. My [PRIVATE], fear of being ill, worry and [PRIVATE] about the safety of [PRIVATE] kept me constantly terrified of what Covid 19 could have done to us if I became sick. I saw countless bodies being moved to the morgue daily, which made me so afraid and [PRIVATE]. At the time I was also [PRIVATE].*

[PRIVATE].



[...]

[PRIVATE].

*I completed a Fraud prevention course, read articles on duty of candour and completed a being open course.'*

### **Decision and reasons on facts**

At the outset of the hearing, the panel heard from Mr Lawson, who informed the panel that you made full admissions to charges 1, 1(a),1(b)(i),1(b)(ii),1(b)(iii),2, 2(a),2(b) and 2(c).

The panel also heard evidence from you under affirmation, which allowed you to be cross examined in this hearing.

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

The panel found all the facts proved.

### **Fitness to practise**

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

Dr Joshi 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.

Dr Joshi identified the specific and relevant standards where your actions amounted to misconduct; 20.1, 20.2 and 21.3. Dr Joshi submitted that your actions fell seriously short of the standards expected of a registered nurse. He submitted that in assessing the context, your actions were not an isolated incident. There were 112 examples that were admitted by you and took place during a span of nine months. He submitted that there is no evidence before the panel which shows sufficient insight. You did not voluntarily admit your actions, and it was a whistleblower who disclosed your actions. He told the panel that it was only allegedly after a conversation with [PRIVATE] that you decided to admit your actions. Further, when approached about this matter, you initially said that you took the taxi for protection from COVID-19, which then changed to [PRIVATE] considerations and then [PRIVATE]. This was despite an email exchange on 20 October 2020 with your line manager who asked [PRIVATE]. He submitted that if there had been some formal disclosure during those nine months, then there were a number of ways that [PRIVATE] could be dealt with. He submitted that your fraudulent conduct carried up until 17

December 2020 until it was revealed that an investigation would commence in respect of the unauthorised taxi journeys.

Dr Joshi referred the panel to the NMC's guidance on misconduct (*Reference: FTP-2a*). He submitted that your behaviour was a systematic abuse of the Trust's system. You used actual patients details to facilitate the dishonesty, whilst knowing that the purpose of those taxi journeys were for vulnerable patients, elderly patients or patients who required assistance in going home. He submitted that the panel must bear in mind that the issues here are about professionalism and what is acceptable.

Mr Lawson submitted that you accepted that this is a serious matter. You understand that misconduct is likely to be found and you have made admissions of your behaviour. Mr Lawson reminded the panel of the documentary evidence provided for the benefit of this hearing, which included various reflective pieces, evidence of Continuing Professional Development (CPD) and references. He invited the panel to have regard to these documents and emphasised that you have shown a willingness to be cross-examined because you wanted to give the panel an opportunity to understand the context of the incidents.

### **Submissions on impairment**

You told the panel that nursing is your identity and that you have a passion for caring for others. You said that you wanted to be in a profession where you can make a change and your career as a registered nurse has been one of the greatest achievements of your life. You said that nursing is a profession where you are given the opportunity to reflect and grow as a person. You are passionate about nursing and making an impact in this role. You want the opportunity to grow and learn from being a nurse.

You informed the panel that when you were initially approached about the allegations, you remained silent and neither denied nor accepted this at the time, as there was another nurse present, whom you did not know. You said that you were embarrassed to admit this

when the word *'fraudulent'* was mentioned. You were advised to return home and you then immediately contacted your line manager via a phone call and admitted that you used the Trust's cost code to book yourself taxis between April 2020 and December 2020. You then sent your line manager an email confirming your admission and giving details.

You then told the panel that during the period in which you were using the Trust's cost code to book taxis home, [PRIVATE]. This was a matter you had not previously disclosed during the Trust's investigation regarding your conduct. You said that you were scared of COVID-19 because you were seeing people go past to the morgue every day. You told the panel that you felt embarrassed in confiding in others about [PRIVATE]. Moreover, you told the panel that the COVID-19 pandemic also [PRIVATE]. You said that at the time, you did not want to put yourself at risk of contracting COVID-19 and that you believed getting home quickly and safely via a taxi from the Hospital was the best solution.

You told the panel that your conduct was out of character for you, [PRIVATE]. You told the panel that you are now working in a new environment at a General Practice. Your manager is aware of the NMC investigation, and [PRIVATE]. You said that you have grown and are no longer the same person you were back in 2020. You said that you are [PRIVATE].

You outlined to the panel the steps which you have taken to strengthen your practice. You told the panel that you have kept up to date with your training and are receiving one-on-one support from your current employer. You love your job and want to show the NMC what a great nurse you can be. You told the panel that you have learned a lot from the past three years.

You admitted to taking the taxi to different addresses in Bromley and accepted that you had done so with the intention of being dishonest. You told the panel that whilst you admitted that you took 112 taxi journeys, there were some dates contained in the Trust's investigation report which you disputed during the investigation.

You were asked by Dr Joshi to clarify how you obtained the names and hospital numbers which were used in booking the taxis. You said that you “*made up some names*” or used names of patients that you were in contact with or heard in passing. Dr Joshi referred you to the exhibit which contained redacted names of patients. He drew your attention to the gap between the date of when the patients attended the Trust and the date in which you took the taxi to an address in Bromley. You confirmed that these patients attended the Trust on different dates to the date when you used the taxis. You also confirmed that whilst most of the drop-off locations were on the road that you lived in at the time, two of the drop-off locations were at [PRIVATE] which was in proximity to your home address. You admitted that you used false addresses with the intention of not being discovered.

You provided Dr Joshi with a brief summary of the booking process. You admitted that you are aware of the process and that these bookings were used for elderly, vulnerable patients or patients who had difficulties in going home from the Hospital. You told the panel that this same process can be used if a staff member is unwell, but that the authorisation of a line manager is required to do so. You confirmed that you did not receive authorisation from your line manager to book these taxis.

You told the panel that whilst there were some references about [PRIVATE]. You said that you were not trying to exploit the system, you just wanted to get home. You said that your actions were not premeditated, but you now understand that you did not act with integrity.

[PRIVATE].

You informed the panel that in relation to [PRIVATE] which relate to fraud when you were employed [PRIVATE]. You said this was an incident which took place when you were a [PRIVATE] before you were a nurse, and you were involved with people who you are no longer friends with. You stated that you were “*upfront*” with the NMC and there has been no repeat in your 15-year nursing career. You said you did not believe that this incident is related to the charges today. You said that these are “*two different circumstances*”.

Dr Joshi asked you what a member of the public would think having known about your dishonest conduct. You said that you believe that they would be disappointed and unhappy with your choices. [PRIVATE]. You said that you have built a good support system around you which consisted of your [PRIVATE] and colleagues. You are now aware of the different channels which you can access, and your focus right now is [PRIVATE]. You are [PRIVATE]. Your “*spirituality*” and “*faith*” would not allow you to be dishonest again. You have grown from every experience you have had. Dr Joshi asked you, what has changed since 2007. You said that you were not [PRIVATE] or when you were working in the Discharge Lounge in 2020. However, you believe that when people go through certain situations, people find different ways to [PRIVATE]. You are now actively involved [PRIVATE] and now have an understanding of the error of your behaviour.

The panel asked why initially you considered your actions to be an error of judgment and carelessness and did not think it would be seen as fraudulent when you had [PRIVATE]. You said at that time, “*I just wanted to get home*” and you were not “*thinking actively about dishonesty*”.

The panel then asked why you had not been honest [PRIVATE] in the COVID-19 risk assessment and when you were emailed about it by your line manager at the time. You said that you were not ready to confide in others about [PRIVATE]. Your line manager had only been your manager for a month, and you felt that you did not have the rapport to be able to discuss [PRIVATE].

The panel wanted to gain clarity about your journey to and from work. You told the panel that you would take public transport in the morning to [PRIVATE] and then make your journey to the Hospital. You felt that the situation in your morning commute was “*not bad*” because there were not as many people. You said you were able to get in “*more peacefully*”. [PRIVATE] travelling arose when during the working day, you saw deceased patients being taken to the morgue and [PRIVATE]. [PRIVATE] that you were going home, that public transport would be busy, and you did not want to expose yourself to COVID-19.

You then told the panel that the other reason as to why you wanted to go home quickly is that [PRIVATE].

[PRIVATE].

Dr Joshi moved onto 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 *CHRE v NMC and Grant* [2011] EWHC 927 (Admin) and the relevant NMC guidance.

Dr Joshi submitted that the dishonesty identified in this case is serious. He submitted that your insight is lacking. Whilst he acknowledged that you have admitted all the charges against you, the panel will also need to recognise the context as a whole and the risk of public harm.

Dr Joshi submitted that members of the public looking at this case would see that you were calculated in your behaviour by using other patients' names and booking taxis to addresses in proximity to your address. This was not an isolated incident. He submitted that your actions were "*thought out*" and "*crafted*" and that is where the real impairment lies and that has not been dealt with.

Mr Lawson submitted that you accepted that this was a serious matter and accepted that the charges have taken place for a prolonged period. However, he invited the panel to acknowledge the context of what has occurred. You have admitted all the charges and the consequential effect on the public is unknown. He reminded the panel that the NMC does not set out to punish, and whilst it is important to note that you spent £5,198.40 in taxi journeys, this amount is small in the grand scheme of the NHS' budget.

Mr Lawson addressed the matters raised by Dr Joshi. He stated that the patients' names that were used lacked weight in this case, as there was no other information that was

identifiable. [PRIVATE]. “Everyone” was experiencing the ramifications of COVID-19. [PRIVATE].

Mr Lawson told the panel that you admitted your actions within 24 hours of being confronted about your conduct. You expressed significant remorse throughout and including in your oral evidence. You “indicated” awareness of what you should do in the future. You have undertaken training and paid the hospital back for the taxi fares in full. You have tried your best to address the matters as best as you could. He submitted that there is no evidence to suggest that harm was caused to a patient by your actions.

Mr Lawson addressed Dr Joshi’s submission that you were calculated in your behaviour. He submitted that there was no intricate plan. You took the easier route home [PRIVATE]. Whilst there was [PRIVATE], these are different circumstances. You made the NMC aware of [PRIVATE]. You “owned up to it”. This does not indicate a risk of repetition when [PRIVATE]. You have taken the time to understand your own actions and tried to show the panel [PRIVATE]. You have been practising without restrictions and your current employers are happy with your performance.

Mr Lawson submitted that in taking account your [PRIVATE], remorse, payment and personal development, you have demonstrated strengthened practice. He submitted that an admission of dishonesty does not equate to current impairment. He invited the panel to consider what more could you have done to address the risk of repetition.

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), *Saha v GMC* [2009] EHC 1907 Admin, *Zygmunt v GMC* [2008] EHC 2643 Admin, *Cohen v GMC* [2008] 581 Admin, *Cheatle v GMC* [2009] EHC 645 Admin, *General Medical Council v Meadow* [2007] QB 462 (Admin) and *Ashton v GMC* [2013] EHC 943.

## **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:

***'5 Respect people's right to privacy and confidentiality***

*5.1 Respect a person's right to privacy in all aspects of their care.*

*5.4 Share necessary information with other health and care professionals and agencies only when the interests of patient safety and public protection override the need for confidentiality.*

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

*To achieve this, you must:*

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

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

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

*20.4 Keep to the laws of the country in which you are practising.*

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

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

*To achieve this, you must:*

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that having considered the various breaches of the Code and the guidance, the behaviour clearly amounted to misconduct. The charges found proved are serious charges. You admitted to being dishonest on 112 occasions and over a nine-month period to [PRIVATE]. You knew that you were not authorised to book a taxi home. Taxi journeys were reserved for the most vulnerable of patients and only available for staff in special circumstances when authorised by their manager. Your actions were premeditated, sophisticated and deliberate. You used patients' names and details. You fabricated names. You created false addresses within the locality of your home. This was to conceal your fraud. This was a very serious breach of trust. At the time of the fraud, you were in a position of trust, a Band 6 Nurse acting as a Band 7 in charge of the Discharge Lounge and during a time in which hospitals across the country were experiencing immense pressure due to the COVID-19 pandemic.

You gave patient names to organisations outside of the NHS for your own benefit, not based on patient need. The panel found this breached patient confidentiality.

You have a [PRIVATE]. The panel found that this was a similar matter because it involved a breach of the trust placed in you as an employee. The panel noted that it was a long time ago when you were [PRIVATE] and before you were a nurse. However, the panel found that as a result of this previous incident, you should have been more aware of the concept and consequences of dishonesty and fraud within the workplace.

The panel acknowledged that no patients were placed at risk of harm. However, it determined that members of the public would find your actions deplorable. This was a serious departure from the standards expected of a registered nurse, particularly, as your conduct was repeated over a significant period of time.

The panel found that your actions did fall seriously short of the conduct and standards expected of a nurse and amounted to 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.’*

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and comply with the code. 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) [...]
- 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 finds that your misconduct breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

The panel considered that in regard to insight, you made admissions about your behaviour. You provided the panel with a comprehensive reflective statement and appeared to understand that your behaviour was dishonest. You seemed to understand how that financial loss to the NHS would affect patients. You showed an understanding of how members of the public would view your behaviour and how it would affect the reputation of the profession. The panel have seen evidence that you have undertaken training, some of which took place in December 2020, shortly after your actions were discovered, and your reflection on your behaviour. The panel also noted that you have been cooperating with the investigations and NHS proceedings. You also paid the money, £5,198.40, in full. You have continued to work in a clinical role and have told the panel that your employers are aware of the NMC proceedings and there has been no repetition of this ilk.

The panel considered your account [PRIVATE]. However, the panel noted that this explanation was not given until after your dismissal from the Trust and has evolved over the course of the NMC proceedings. The panel found that you were given opportunities to ask for help at the time but did not take them up, for instance, you were asked in an email if you wanted a risk assessment in October 2020 by which time you had been taking taxis for six months. You declined and said you had no concerns. You claimed [PRIVATE]. However, even during oral evidence at the hearing you told the panel important new information about [PRIVATE]. The panel were not provided with any independent evidence of your account. [PRIVATE]. The panel found that you could have been expected to provide some evidence.

[PRIVATE]. You stated that you had spoken to your employer about [PRIVATE]. However, the panel noted that none of the references provided by you, which include references

from your employer, a recruitment agent and [PRIVATE]. The panel found that the fact that none of these references mention [PRIVATE], undermines the account you gave to this panel. The four testimonials are positive about your recent character but make no mention of [PRIVATE]. Accordingly, as the authors are not in possession of the full facts about your character, the panel can give them only limited weight.

The panel has concluded that one of the reasons you only booked taxis in the evening for yourself and not in the morning is because your team at the Discharge Lounge usually only booked taxis from the Hospital to patients' homes. The panel concluded that you made use of the resources available to you as a result of your position.

For these reasons the panel found that it was unable to accept the account that you gave. It therefore found that your conduct was not mitigated by [PRIVATE] you describe and that you do not have full insight into your misconduct.

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 profession and upholding the proper professional standards for members of those profession.

The panel determined that a finding of impairment on public interest grounds is required because your conduct fell below the standard expected of a registered nurse. 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.

**Application by Mr Lawson to admit new evidence on Sanction**

Prior to the submissions on Sanction, the panel was made aware that [PRIVATE] letter dated 29 November 2021 was submitted by you after the panel made their decision on your misconduct and impairment. [PRIVATE]:

‘[PRIVATE].’

Mr Lawson told the panel that the submission of this letter at this stage was unfortunate. He invited the panel to consider this letter when it makes its decision on sanction. [PRIVATE]. However, he stated that he does *‘not propose that this is revisited at the impairment stage’*.

Dr Joshi submitted that it is regrettable that this matter has now already been dealt with in terms of the impairment stage. He submitted that clearly it is a matter for your legal representative and you to decide how evidence is put before the panel and at what stage. He referred the panel to the sanction guidance (*Reference San- N2*). He submitted that the first aspect is looking at seriousness and referred the panel to the guidance on dishonesty. He submitted that in looking at this guidance, it is fairly clear throughout from admission to the cross examination and the evidence-in-chief that this case, as much as it has developed in other aspects, that those aspects are incidents surrounding that dishonesty that has clearly been admitted by you. This document purports to look at some of the background and put forward mitigating factors presumably that you want the panel to take into account. He submitted that the weight put on this late piece of document and how it is interpreted is a matter for the panel.

Dr Joshi submitted that this is not a case of revisiting the panel’s decision. The panel’s decisions are clear and cogent in finding misconduct and impairment. Therefore, he submitted that this information is only relevant for mitigating features.

The panel accepted the advice of the legal assessor. He told the panel that this is a most unsatisfactory state of affairs. He provided the following advice:

- [PRIVATE] and the subjective limb in the case of *Ivey v Genting Casinos (UK) (trading as Cockfords Club)* [2017] UKSC 67. However, save in an extreme case it is highly unlikely to be a sufficient answer to a charge of dishonesty. This is the very point Fordham J had earlier this year in *Sun v. GMC* [2023] EWHC 1515 (Admin), in particular paragraph 35.
- There is considerable difficulty in adducing this evidence to permit the panel to re-determine the facts and the issue of dishonesty. There is authority that once an issue has been determined and the panel has moved on, it is too late to re-open the issue and referred it to the judgment of Lang J in *Nduka v GMC* [2017] EWHC 1396 (Admin).
- There have been two cases this year on fresh evidence: *Chowdhury v. GMC* 2023 SLT 404 where the practitioner [PRIVATE] between the impairment decision and the sanction decision; and *Roy v. GMC* [2023] EWHC 2659 (Admin), where the court also refused to admit the fresh evidence.
- Bearing in mind the submissions by both counsel the panel should wish to consider the [PRIVATE] evidence in relation to sanction, although here again beware of what Fordham J, namely that on sanction the overriding statutory obligation of the regulator should be borne in mind.

The panel has received legal advice and accepted said advice. The panel accepted the submissions by both counsel that this document can be accepted in relation to sanction in terms of mitigation. The panel found that the new evidence submitted at this stage does not impact on the dishonest nature of the act and the findings made in relation to misconduct. The panel accepted that both parties submitted that it is not necessary to revisit the impairment stage. The submissions will go onto consider sanction. The panel accepts this into evidence and will await submissions.

## **Sanction**



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

### **Submissions on sanction**

Dr Joshi informed the panel that in the Notice of Hearing, dated 17 October 2023, the NMC had advised you that it would seek the imposition of a striking-off order if it found your fitness to practise currently impaired.

Dr Joshi submitted that the professional duty of candour is fundamental. The issue of integrity is expected from all professionals by the public. It is not negotiable. He told the panel that you cannot have degrees of candour and degrees of dishonesty. He submitted that the facts are already found proved because of your admissions. The real issue now to look at, is what has occurred and to consider how to approach the relevant issues before the panel. He referred the panel to the guidance (*Reference SAN-1*) of factors to consider before deciding on sanction. He reminded the panel that it will have to look at proportionality:

*'To be proportionate, and not go further than it needs to, the Committee should think about what action it needs to take to protect the public and address the reasons why the nurse, midwife or nursing associate is not currently fit to practise.*

*They should consider whether the sanction with the least impact on the nurse, midwife or nursing associate's practice would be enough to achieve*

*public protection, looking at the reasons why the nurse, midwife or nursing associate isn't currently fit to practise and any aggravating or mitigating features.'*

Dr Joshi submitted that in looking at aggravating features:

- [PRIVATE]. When considering the nature of the charges proved against you, they also relate to theft or dishonesty from an employer by an employee.
- The second aspect is the abuse of position of trust, this is where that you were a Band 6 nurse, on promotion to Band 7, and so the standard expected of you is "*perfectly in line*" with the code. He submitted that you would be expected not to book taxis for yourself, not to use patients' names to facilitate deception, not to put forward different roads in or around your home and not to use particular codes that you have access to. He submitted that it is an abuse of the trust placed in you as a nurse and in a senior position.
- The third aspect is that you lacked insight. You were not able to say what happened and why it happened. There was a pattern of misconduct which occurred over a period of time and took place from April 2020 to December 2020. He submitted that had this not been discovered by a whistle blower, your actions would have continued. You took 112 journeys, which was systematic abuse of the Trust's system.
- Lastly, you placed patients at risk of harm by using real patient details to facilitate your deception.

Dr Joshi addressed the following in terms of the mitigating features:

- [PRIVATE].

- In terms of the level of experience at the time in question, you were a nurse with considerable amount of experience, operating at a high level. You were expected to be a role model. [PRIVATE]. There were exchanges between your line manager and you which was evidenced by emails, including up to October 2020 [PRIVATE]. You responded no and that *'all was fine'*. It was not a question of you having that support, it was offered to you, but you said [PRIVATE]. He submitted that it may be that [PRIVATE], however there were other resources available to you.

Dr Joshi referred the panel to *Reference SAN-2*:

*'Honesty is of central importance to a nurse, midwife or nursing associate's practice. Therefore allegations of dishonesty will always be serious and a nurse, midwife or nursing associate who has acted dishonestly will always be at some risk of being removed from the register.'*

[...]

*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.*
- *Personal financial gain from a breach of trust*
- *Premeditated, systematic or longstanding deception.'*

Dr Joshi submitted that when considering the facts of this case, you were trying to cover your behaviour, bearing in mind your position at the time. He invited the panel to impose a striking off order because the regulatory concerns raised fundamental questions about

your behaviour. He submitted that public confidence cannot be maintained if you are not removed from the register. This is the only sanction sufficient to maintain standards.

The panel also bore in mind Mr Lawson's submissions. Mr Lawson submitted that this is a case where a suspension order is appropriate, anything beyond this is not proportionate. He reminded the panel that it does not set out to punish, rather, to maintain the professional standards.

Mr Lawson told the panel that he acknowledges that it is difficult to address the risk with a conditions of practice order given that this case relate to dishonesty. He submitted that whilst there are 112 journeys made which although happened in different days, he invited the panel to consider this as one long period in respect of [PRIVATE]. He said that he is *"forced to accept this does involve a breach of the position of trust"*, however, the risk of harm is minimal in that 11 patient details were used, and the others are fabricated names.

Mr Lawson addressed your [PRIVATE]. He accepted that the circumstances are similar. He submitted that you were [PRIVATE] and a student nurse when this incident occurred and the circumstances in 2020 is different. He submitted that there must come a point where caution is no longer relevant, and this was prior to your registration. Therefore, this is not in itself necessarily an aggravating feature.

Mr Lawson addressed your mitigating features. He told the panel that the documentary evidence contained a reflective statement, an early admission into the charges found proved and a recognition of your regulatory failings. You have evidence of training and remediated your dishonesty. You made full repayment and provided references which was helpful in providing context to your character. He submitted that you acknowledged what went wrong and what you should have done. He told the panel that you have demonstrated insight and would not act in such manner again. You had unique [PRIVATE]. He submitted that the fact you had a lapse in judgment and difficulty [PRIVATE] is not necessarily a regulatory concern. [PRIVATE]. Mr Lawson submitted that the panel has evidence of [PRIVATE]. He told the panel that the *"drivers of the offending*

*behaviour have fallen away*". [PRIVATE]. He submitted that whilst a suspension order would have a similar effect to a striking-off order, a striking-off order would be significant and *"going beyond what is required to maintain public confidence"*. He told the panel that you care deeply about nursing and have currently been employed with no concerns.

Mr Lawson submitted that a reasonable member of the public knowing these facts, would not be surprised if you were made subject to a suspension order. However, they would be shocked if you were struck off bearing in mind your insight, [PRIVATE], and [PRIVATE] at the time the charges found proved took place.

[PRIVATE].

The panel accepted the advice of the legal assessor. He advised the panel that it must take into account all of the relevant facts, including the most recent material provided to the panel and your personal matters. The panel must also consider the aggravated features put forward by Dr Joshi. He told the panel that it is a matter for the panel to consider what weight to attach on the material presented before it and emphasised that the panel must not set out to punish but to protect the public, maintain the public confidence of the profession and declare proper standards of performance and conduct. He told the panel that it must carefully consider each individual sanction and that it must be proportionate.

### **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:

- Abuse of a position of trust acting as a Band 7 registered nurse and took advantage of your access to the cost code.
- Misconduct over a period of time, as there were 112 incidents over eight months. Your actions were premeditated, sophisticated and deliberate. You had multiple opportunities to rethink and to reflect and stop your actions.
- You took money from the public funds for personal gain.
- Use of patient details to facilitate the deception and booking of the taxis without authorisation and for personal use.
- [PRIVATE].

The panel also took into account the following mitigating features:

- You have undertaken training and have been working in General Practice since your referral without incident.
- Your repayment of the money.
- You have demonstrated a developing insight.
- [PRIVATE].

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 nature and seriousness of the case, 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 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 your registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The misconduct identified in this case was not something that can be addressed through retraining, given that your actions relate to dishonesty. Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case.

The panel then went on to consider whether a suspension order would be an appropriate sanction. It carefully and comprehensively considered whether this is appropriate given the nature of the charges found proved. The SG states that suspension order may be appropriate where some of the following factors are apparent:

- *A single instance of misconduct but where a lesser sanction is not sufficient.*
- *No evidence of harmful deep-seated personality or attitudinal problems.*
- *No evidence of repetition of behaviour since the incident.*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour.*

The panel found that although this conduct were actions of a similar type that occurred within the same set of circumstances, it could not be viewed as a single incident. There were 112 incidents over a period of eight months. You could have stopped at any time, but you continued to book and take taxis regularly and repeatedly for a lengthy period. You failed to rethink your behaviour at any point in the eight months. The panel considered that [PRIVATE], the fact that you dealt with them by systematically taking advantage of your position, rather than paying for the taxis yourself or seeking assistance, even after your previous experience with fraud, demonstrates deep seated attitudinal problems.

The panel accept that there is no repetition of behaviour in your work since the incident. However, the panel found that you have limited insight, three years after the events in question. [PRIVATE]. You did not demonstrate a full understanding of the motivations for your behaviour and the other ways of resolving your situation. [PRIVATE]. As there are attitudinal concerns and limited insight, the panel found that there is currently a risk of further dishonest acts if you were to find yourself in a difficult situation in the future. Therefore, there is 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 bore in mind its overriding objective to maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance. The panel had difficulties in justifying imposing a suspension order where the level of premeditation, sophistication and deliberation was to such an extent. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by your actions is fundamentally incompatible with you 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?*

The panel recognised [PRIVATE]. The panel acknowledged that no direct risk of harm was caused to patients, and that the charges found proved do not relate to your clinical practice or clinical competence. The panel noted that whilst it observed that the information you provided during the course of this hearing differs from the initial information that you presented, you provided some level of insight and reflection.

The panel carefully considered the context of when the charges proved occurred and accepted the guidance, in that the lesser sanction is considered first. However, in reflecting on the facts of the charges proved, the panel noted that your misconduct was a sustained act spanning between April 2020 and December 2020. You [PRIVATE] nor did you consider the impact of your actions at the time. You used £5,198.40 of the NHS' money and failed to speak up until you were confronted with your actions. You breached confidentiality in using 11 patients' names and ordered taxis to take you within the vicinity of your home at the end of your working day. Your actions were premeditated, sophisticated and deliberate in that you selected patients whom you were in contact with, heard in passing or "*made up some names*". You then selected addresses which is near your home address to further conceal your journeys.

The panel determined that a well-informed member of the public with full knowledge of your actions and the context of your actions at the time of the incidents, would be shocked to learn that action was not taken in a case where a registered nurse took advantage of her access to the Trust's cost code and took money from the NHS by way of booking taxis for her own personal gain when hospitals across the country were subject to immense

operational and financial pressure due to the impact of COVID-19. Whilst the panel sympathises with the [PRIVATE], it felt that the dishonesty in your case was repeated, premeditated, sophisticated and deliberate.

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

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 effect of your actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct yourself, 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 you 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 your own interests until the striking-off 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 Dr Joshi. He submitted that an interim suspension order for 18 months is appropriate. The reason for this length of time is to cover any appeal or otherwise any matters that may arise prior to the striking-off order taking effect.

The panel also took into account the submissions of Mr Lawson. He submitted that it is understood why an interim order is required given the panel's decision on sanction. However, whilst the length of time is for the panel to decide, Mr Lawson submitted that 12 months is more appropriate.

The panel accepted the legal advice. The panel is aware that an interim order should not be imposed unless it is for the protection of the public, it is otherwise in the public interest, and or it is in your interest. He told the panel that it is appropriate to impose an order which mirrors the panel's decision at sanction.

## **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 nature and 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 therefore imposed an interim suspension order for a period of 18 months to cover any appeal period.

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

That concludes this determination.