

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

**Substantive Meeting
Tuesday 21 November 2023 - Wednesday 22 November 2023**

Virtual Meeting

Name of Registrant:	Annette Rosalind Morrell
NMC PIN	09H1817E
Part(s) of the register:	RNA: Adult nurse, level 1 (17 November 2009)
Relevant Location:	Liverpool
Type of case:	Misconduct
Panel members:	Adrian Blomefield (Chair, lay member) Stacey Patel (Lay member) Florence Mitchell (Registrant member)
Legal Assessor:	Juliet Gibbon
Hearings Coordinator:	Rim Zambour
Facts proved (by admission):	All
Facts not proved:	None
Fitness to practise:	Impaired
Sanction:	Striking-off order
Interim order:	Interim suspension order (18 months)

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that that the Notice of Meeting had been sent to Mrs Morrell's registered email address by secure email on 2 October 2023.

Further, the panel noted that the Notice of Meeting was also sent to Mrs Morrell's representative at the Royal College of Nursing (RCN) on 2 October 2023.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, the time, the date on or after the meeting would take place and the fact that this meeting was to be heard virtually.

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

Details of charge

That you a registered nurse;

1. On 14 July 2021 submitted a competency form to 18 Week Support:
 - a. Purporting that Colleague 1 had signed and/or stamped the form prior to it being sent to 18 Week Support. **[PROVED by admission]**
 - b. Purporting that Colleague 1 had completed the form prior to it being sent to 18 Week Support. **[PROVED by admission]**
 - c. Purporting to indicate that Colleague 1 had assessed you as being '*fully competent in areas relating to Endoscopy*' to undertake a role as a band 5 Endoscopy Nurse. **[PROVED by admission]**

2. Your actions in charges 1a and/or 1b and/or 1c were dishonest in that you was attempting to mislead 18 Week Support into believing that:

a. Colleague 1 had completed and/or signed the competency form when you knew that this was not true. **[PROVED by admission]**

b. Colleague 1 had assessed you as being *'fully competent in areas relating to Endoscopy'* in order to undertake a role as a band 5 Endoscopy Nurse when you knew that this was not true. **[PROVED by admission]**

3. On 14 July 2021 submitted a reference to 18 Week Support;

a. Purporting that Colleague 2 had signed and/or stamped the reference prior to it being sent to 18 Week Support. **[PROVED by admission]**

b. Purporting that Colleague 2 had completed the reference prior to it being sent to 18 Week Support. **[PROVED by admission]**

c. Purporting to indicate that Colleague 2 was your line manager and/or in a position to provide a professional reference for you. **[PROVED by admission]**

d. Purporting to indicate that Colleague 2 had assessed you as being suitable for a role as a band 5 Endoscopy Nurse. **[PROVED by admission]**

4. Your actions in charge 3a and/or 3b and/or 3c and/or 3d were dishonest in that you was attempting to mislead 18 Week Support into believing that:

a. Colleague 2 had signed and/or stamped the reference when you knew that this was not true. **[PROVED by admission]**

b. Colleague 2 had completed the reference in a professional capacity and/or assessed you as being suitable for a role as a band 5 Endoscopy Nurse when you knew that this was not true. **[PROVED by admission]**

5. Your actions in charges 1 and/or 3 were dishonest in that you was attempting to gain further employment as a band 5 Endoscopy Nurse with 18 Week Support knowing that you had not been independently assessed by either a band 6 or band 7 Endoscopy Nurse to undertake this role. **[PROVED by admission]**

6. Worked outside the scope of your competency as a band 5 Endoscopy Nurse on one or more occasions between 1 January 2018 and 14 July 2021 in that:

a. You had not been independently assessed by a band 6 or band 7 Endoscopy Nurse as being suitable to carry out the role of a band 5 Endoscopy Nurse. **[PROVED by admission]**

b. You had not kept your training as a band 5 Endoscopy Nurse up to date within this period. **[PROVED by admission]**

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

Mrs Morrell's representative at the RCN made a written request on her behalf that this hearing be held in private [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The legal assessor advised 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 hold this meeting partly in private [PRIVATE].

Background

Mrs Morrell was referred to the Nursing and Midwifery Council (NMC) on 25 January 2022 by the Deputy Director of Nursing, Liverpool University Hospitals NHS Foundation Trust ("the Trust"). Mrs Morrell was employed by the Trust as a Band 7 nurse endoscopist. She had worked for the Trust since 2009, some of that time as an endoscopy nurse.

In 2018 Mrs Morrell joined 18 Weeks Support, a nursing agency ("18WS") to undertake additional shifts as a Band 5 endoscopy nurse on an agency basis. As part of her employment, she was required to provide a completed reference form and evidence of the

annual completion of Band 5 Endoscopy Nurse competencies. Mrs Morrell provided this evidence on 14 July 2021. However, it transpired that she had falsified Colleague 1's signature on the competencies form without their knowledge or consent and she had also fraudulently provided a reference in the name of Colleague 2.

The concerns were investigated locally. During the investigation Mrs Morrell admitted submitting a fraudulently signed reference and competency form and she was dismissed by the Trust. Mrs Morrell was also suspended from undertaking any shifts with 18WS.

In the NMC witness statement, Colleague 1 explains the difference between a Band 7 endoscopist and a Band 5 endoscopy nurse. Colleague 1 explains that the two roles require very different training and a different skill set. Colleague 1 says, "*The difference between the two roles is specifically in terms of managing gastrointestinal bleeds, as if a patient bleeds, an Endoscopy Nurse needs to be competent in managing that (a Nurse Endoscopist does not have the competencies to deal with this)*".

Colleague 1 also states that there were concerns with Mrs Morrell's competency of managing gastrointestinal bleeds as she had not been assessed for that specific clinical skill. She says, "*Furthermore, the role of an Endoscopy Nurse requires skills which are outside Nurse Morrell's scope of practice as a Nurse Endoscopist and Nurse Morrell had self-assessed herself for the competencies*".

During the course of the NMC investigation, it transpired that Mrs Morrell had been working for the agency as a band 5 Endoscopy Nurse between 2018 and 2021 without the necessary competencies. There was an issue with the agency's compliance team who had failed to request the evidence of her competencies until July 2021. A disciplinary hearing was heard on 5 January 2022, and Mrs Morrell was dismissed for gross misconduct.

Decision and reasons on facts

At the outset of the meeting, the panel noted the letter from Mrs Morrell's representative dated 19 September 2023 and the Case Management Form (CMF) sent to the NMC on 14 June 2023, which set out Mrs Morrell's full admissions to all of the charges.

The panel therefore finds charges 1, 2, 3, 4, 5 and 6 proved in their entirety by way of Mrs Morrell's admissions.

Fitness to practise

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

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

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

Representations on misconduct and impairment

In coming to its decision, the panel had regard to the case of *Roylance v GMC (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.*'

The NMC 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.

The NMC submitted that the following provisions of the Code have been breached in this case:

'6 Always practise in line with the best available evidence

To achieve this, you must:

6.2 maintain the knowledge and skills you need for safe and effective practice

10 Keep clear and accurate records relevant to your practice

To achieve this, you must:

10.3 complete records accurately and without any falsification

13 Recognise and work within the limits of your competence

To achieve this, you must:

13.5 complete the necessary training before carrying out a new role

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

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

22 Fulfil all registration requirements

To achieve this, you must:

22.3 keep your knowledge and skills up to date, taking part in appropriate and regular learning and professional development activities that aim to maintain and develop your competence and improve your performance.'

The NMC provided written submissions which are as follows:

'The NMC considers that the misconduct is serious because it demonstrates conduct that has fallen significantly short of the standards expected of a registered nurse. Falsifying references and competency documents places patients at the risk

of harm especially where the content of those documents misrepresents a nurse's competency to deliver safe care.

Nurses occupy a position of trust and are required to keep to and uphold the standards expected of them in the Code of Conduct. This is so that members of the public feel confident in placing their and their loved ones' health in the hands of clinical professionals. Actions which undermine that public confidence therefore pose an indirect, but very real, risk to the public. As identified above, Mrs Morrell's made extremely poor decisions which breached sections of the Code. As such she failed to uphold the standards and values expected of her.

The conduct further breaches tenets of the profession, such as professionalism and trust, duty of candour to be honest and to act with integrity, and a failure to preserve patient care. All of which are fundamental to the nursing profession and breaches of such tenets must be considered as being serious.

In particular, the risks associated with the conduct is that which is described by Colleague 1 as being a "serious patient safety issue." The conduct being even more serious because it is conduct that is linked to Mrs Morrell's practice.

Therefore, Mrs Morrell's conduct demonstrated in this case must be considered as being regarded as being sufficiently serious misconduct attached to Mrs Morrell's fitness to practise. It is conduct that has fallen seriously short of the standards expected of a nurse, exposing patients to a serious and unwarranted risk of harm.'

Mrs Morrell's representative did not provide any submissions in relation to misconduct.

The NMC requires the panel to bear in mind its overarching objective to protect the public and the wider public interest. This includes the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council (No 2)* [2000]

1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and *General Medical Council v Meadow* [2007] QB 462 (Admin).

Decision and reasons on misconduct

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

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

'6 Always practise in line with the best available evidence

To achieve this, you must:

6.2 maintain the knowledge and skills you need for safe and effective practice

10 Keep clear and accurate records relevant to your practice

To achieve this, you must:

10.3 complete records accurately and without any falsification

13 Recognise and work within the limits of your competence

To achieve this, you must:

13.5 complete the necessary training before carrying out a new role

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

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

22 Fulfil all registration requirements

To achieve this, you must:

22.3 keep your knowledge and skills up to date, taking part in appropriate and regular learning and professional development activities that aim to maintain and develop your competence and improve your performance.'

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 the facts found proved do amount to misconduct. The panel considered that the charges are serious and relate to Mrs Morrell acting outside the scope of her competency as well as deliberately falsifying documents. The panel determined that other nurses would be shocked to know of Mrs Morrell's actions.

The panel found that Mrs Morrell's actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Representations on impairment

The panel had regard to the NMC's Statement of Case regarding impairment which states:

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

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

in the future and/or d. has [the Registrant] in the past acted dishonestly and/or is liable to act dishonestly in the future.

The NMC submits that questions a – d can be answered in the affirmative

Although it could be said that there was no actual patient harm in this case, there was a risk of harm being caused. The conduct of portraying competency in an area where Mrs Morrell has not been so assessed as being competent exposed patients to a risk of harm. As stated by Colleague 1 and Person A in their witness statements, providing false competencies is regarded as a serious risk to patients. Mrs Morrell was portraying that she was competent to manage gastrointestinal bleeds when she in fact had not been signed off to be competent to manage such risks. As stated by Person A, ‘managing GI bleeds is an essential competency that needs to be signed off to ensure that a nurse will be able to manage any bleeds which may occur, and could lead to heavy bleeding and serious harm to patients’. As such Mrs Morrell did not have the relevant training necessary to safely support procedures being conducted by a clinical Endoscopist.

Mrs Morrell’s conduct also breached fundamental tenets of the profession, such as professionalism and trust, failing to preserve safety of patients by not being assessed as being competent to undertake the role, to act with honesty and integrity at all times having regard to the principle of Duty of Candour. Moreover, Mrs Morrells actions clearly were dishonest.

Therefore, Ms Morrel’s actions overall brought the profession into disrepute, it being conduct that fell significantly short of the standards expected for a registered nurse.

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

The panel will note that Mrs Morrell has provided a reflective statement, training certificates, [PRIVATE] and a reference from a colleague who has previously worked with her.

As set out in Mrs Morrell's reflective statement she accepts the charges, demonstrates remorse for her actions and recognises that she has breached aspects of the Code of Conduct. Mrs Morrell indicates that her actions were not premeditated. However, the panel should have regard that this was not a single instance of misconduct, and on two occasions Mrs Morrell falsified documentation purporting to be from two separate colleagues. Therefore, it is not accepted that Mrs Morrell's actions could not be regarded as being premeditated. Clearly Mrs Morrell thought about what she was going to do before doing it.

Mrs Morrell parts blame for her actions on factors such as [PRIVATE] being bullied, isolated and working in a hostile environment [PRIVATE]. These may be factors relevant to her at that time, but it is not accepted that such factors can be used to excuse the conduct demonstrated carried out by Mrs Morrell. Mrs Morrell does not explain how such factors left her in the position that she had to undertake such conduct, or how such factors provide a sufficient link as to why it was necessary to carrying out fraudulent actions. It is submitted that here Mrs Morrell is attempting to mitigate her actions rather than taking full responsibility for the conduct that she undertook.

Mrs Morrell has demonstrated insight with regards her conduct in relation to patient risk and damage to the profession. In addition, Mrs Morrell has provided insight on what actions she should have taken to avoid being in the position of carrying out such conduct. However, when considering her the NMC submit that when considering Mrs Morrell's overall insight it can be regarded as developing, for example Mrs Morrell does not explain the impact that such conduct has on the profession, why there are such standards and breaching such standards could damage the reputation of the profession.

The panel will note that dishonesty, especially when it is linked to Mrs Morrell's practice, is difficult to remediate. Mrs Morrell has provided evidence of training, and

of note in relation to Duty of Candour. The panel may regard this as relevant and an indication that Mrs Morrell has begun to remediate dishonesty in this case. Mrs Morrell has provided training certificates in other areas relating to the nursing profession. However, these do not relate to the concerns identified in this case, in particular Mrs Morrell has not provided training certificates in relation to her role at the time of the concerns being raised, or training certificates relating to the role that she was seeking to gain employment in.

Mrs Morrell has not demonstrated that she has remediated the concerns through employment, importantly her honesty and integrity. It is right to say that Mrs Morrell has been the subject of an interim order that prevents her from working as a nurse, which was imposed on her practice on 23 March 2022. However, notwithstanding this restriction, Mrs Morrell has not provided any evidence from any employer past or present attesting to her honesty and integrity, thus demonstrating that Mrs Morrell conduct has had a salutary effect upon her.

Mrs Morrell has provided a testimonial from a colleague, who has worked with her on previous occasions. This testimonial obviously indicates that Mrs Morrell is a good nurse and attests to her capabilities as a nurse. However, the reference does not attest to Mrs Morrell's honesty and integrity or provide independent evidence that Mrs Morrell understands the importance of honesty and integrity, or that the conduct has had a salutary effect upon her.

It is therefore submitted that Mrs Morrell has not fully remediated the concerns identified in this case. As such there remains a continuing risk of harm to the public.

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

“In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the

need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.”

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

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

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

The NMC considers that there is a public interest with a finding of impairment being made to declare and uphold proper standards of conduct and behaviour and to maintain confidence in the profession and the NMC as its regulator. The NMC submits that a failure to find current impairment on public interest grounds would send out the wrong message to the profession and the wider public by not condoning such conduct.

The NMC therefore submits that there remains a risk to the health, safety, and well-being of the public and that a finding of current impairment is necessary on public protect and public interest grounds.’

The panel also had regard to the representations on impairment made by Mrs Morrell's representative which are as follows:

'The Registrant does not accept that her current fitness to practise is impaired by reason of her misconduct.

The case of Azzam v GMC [2008] held that a fitness to practise panel must look forward when considering facts material to a registrant's fitness to practise. This involves taking into account evidence of the registrant's current skills and any steps taken to remedy any alleged deficiencies or shortcomings in her practice.

Risk of repetition/public protection: it is submitted that this was an isolated incident, set against an unblemished nursing career of 11 years and the Registrant, as set out in her reflection, was in the midst of a toxic and unsupportive working culture [PRIVATE].

Remediation: The Registrant has undertaken duty of candour training, alongside mandatory training to support her practice demonstrating remediation. The Registrant has reflected on this incident and how it has impacted and changed her practice. It is submitted that the Registrant has demonstrated sufficient insight and remorse to assure the Panel that the risk of repetition is negligible.

Testimonial: Attached to these submissions is a testimonial supporting the Registrant, the author opines that the Registrant is safe to practise as a nurse. It is submitted that this view is a true and accurate reflection of the Registrant's clinical abilities and character, and is entirely incongruent with the views of the referrer.

Public interest: In respect of the public interest component that the NMC considers, it is submitted that a reasonable member of the public, apprised of all the facts of this case would not lose faith or confidence in the nursing profession, and would not think that the Registrant posed any current risk to patient safety if she were allowed to continue to practise as a nurse without restriction. The key factors in support of the Registrant's defence include that this was a one-off incident set against a raft of contextual circumstances, that there was no patient harm, and that she had worked as a nurse without incident for 11 years. The NMC is invited to consider this matter proportionately and holistically as a member of the public would and it is therefore

submitted that the charges are not serious enough to require restriction to promote public confidence.

It is therefore submitted that the Panel should find that the Registrant is not currently impaired.'

The panel accepted the advice of the legal assessor.

Decision and reasons on impairment

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

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

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

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

The panel found that patients were put at risk as a result of Mrs Morrell's misconduct, especially in relation to Charge 6. The panel determined that in acting outside of her competency skillset for a significant period of time, patients were placed at an unwarranted risk of harm. The panel acknowledged information provided by Person A from 18WS in their witness statement that Mrs Morrell's role did not include her providing support in the event of gastrointestinal bleeds, which had been highlighted by Person B as the significant difference between Mrs Morrell's substantive role and the role she was employed as when working for 18WS. However, the panel determined that she may have been placed in a situation where she would need to provide that support if her colleagues believed her to be competent to do so. Therefore, this also placed patients at unwarranted risk of harm.

Mrs Morrell's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute as a result of her dishonesty in falsifying documents, as well as acting outside the scope of her competency. The panel determined that the public would be horrified if they knew a family member was being treated by a nurse who had not been assessed as competent. It also considered that Mrs Morrell had breached the trust of patients and their family members and 18WS in her actions.

The panel was also satisfied that confidence in the nursing profession would be undermined if its regulator did not find the charges relating to Mrs Morrell's dishonesty extremely serious. The panel therefore found all four limbs of *Grant* engaged.

Regarding insight, the panel took into consideration that Mrs Morrell made admissions to all of the charges and has provided a reflective piece, a testimonial and training certificates. However, the panel was of the view that Mrs Morrell's insight was not fully developed. Whilst Mrs Morrell expresses remorse for her actions. It determined that Mrs Morrell has explained that she '*was pushed to my limits both in work and at home*' however her reflective piece made excuses for her actions. Furthermore, the panel was of the view that Mrs Morrell's contention in her reflective piece that her actions '*were not premeditated actions*' evidenced that Mrs Morrell had not developed the necessary insight. Whilst she has some insight that her actions were wrong, she did not consider the effect of her misconduct on those around her including her colleagues and the profession. The panel considered that in her reflective statement, Mrs Morrell mentions '*I never have and never would put a patient at risk*'. The panel was of the view that this further demonstrates her lack of acceptance that she may have been a risk to patients.

The panel had sight of the [PRIVATE] contextual information in relation to there being a hostile environment [PRIVATE] and bullying. However, the panel determined that these do not explain or justify the falsifying of documents and acting outside of her competency skillset. The panel also had sight of Colleague 1's witness statement in which they state that they would have been willing to assess Mrs Morrell's competencies as an Endoscopy Nurse had they been asked to do so. [PRIVATE].

The panel had regard to the testimonial from Mrs Morrell's colleague. It was of the view that although the testimonial states that Mrs Morrell was a good nurse, it does not go fully to speak to impairment.

The panel was satisfied that some of the misconduct in this case is capable of being addressed. Therefore, the panel carefully considered the evidence before it in determining whether or not Mrs Morrell has taken steps to strengthen her practice. The panel took into account the additional, relevant training Mrs Morrell has undertaken. The panel considered

that she has not had the opportunity to strengthen her practice as she has been subject to an interim suspension order. It therefore did not find anything to suggest that Mrs Morrell's practice has been strengthened.

The panel is of the view that there is a risk of repetition based on the seriousness of the charges and the element of repeated dishonesty. The panel also agreed with the NMC's submission that Mrs Morrell's actions were premeditated as falsely completing the forms and sending them in would take time and thought, as opposed to being a one-off incident done in the moment. Further, the panel was not satisfied that it is highly unlikely that this misconduct would not be repeated again in the future. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel determined that a finding of impairment on public interest grounds is required because an informed member of the public would be shocked if a nurse that had these charges against them was not found to be impaired. In addition, 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 Mrs Morrell's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Mrs Morrell's fitness to practise is currently impaired.

Sanction

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

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

Representations on sanction

The panel noted that in the Notice of Meeting, dated 2 October 2023, the NMC had advised Mrs Morrell that it would seek the imposition of a '*strike off order, moving downwards to a suspension order were it deemed appropriate*' if it found Mrs Morrell's fitness to practise currently impaired.

The NMC provided written submissions outlining the suggested aggravating and mitigating factors. The NMC submitted that:

'The aggravating features in this case include:

- *Breach of Professionalism*
- *Breach / Abuse of Trust*
- *Personal financial gain*
- *Dishonesty linked to clinical practice*
- *Insight that could be regarded as developing*
- *Lack of Candour*
- *Premeditated / planned / deliberate conduct*
- *Risk of patient harm*
- *Failure to preserve safety*
- *Failure to practise effectively*

The mitigating features in this case include:

- *Health*
- *Admissions*
- *Level of remorse.*

Starting with the least restrictive sanction:

Taking no action: The concerns are too serious for this type of sanction to be imposed. There remains an ongoing risk to the health, well-being and safety to patients. It is also conduct that undermines public trust, and the need to promote standards and conduct within the profession.

Caution Order: This sanction would be insufficient to deal with the seriousness of the case and is inadequate to deal with public protection and maintaining standards and confidence within the profession. The dishonesty itself is far too serious to warrant such an order and imposing such an order would send the wrong message to those in the profession and to the public. Furthermore it cannot be regarded as conduct falling at the lower of the spectrum of impaired fitness to practise.

Conditions of Practice Order: This sanction would not be appropriate in the circumstances of this case. The conduct is attitudinal at its root and as such there are no workable or measurable conditions that could be imposed to meet such conduct.

Suspension Order: The concerns are extremely serious. The dishonesty cannot be said to be a single instance of misconduct. Not only has Mrs Morrell submitted a competency form purporting to be from a colleague but also submitted a reference purporting to be from a colleague, all of which was not true. In addition, Mrs Morrell has worked outside the scope of her competency. Furthermore when considering the issue of dishonesty, this cannot be said to be at the lower end of the scale because; it is linked to Mrs Morrell's clinical practice, it is a breach and abuse of trust, it is providing false information about being assessed for a role placing patients at a risk of harm, it is premediated, there was the potential for personal financial gain by gaining employment under false pretences, and it is conduct that breached Duty of Candour. In addition, Mrs Morrell has not demonstrated full insight regarding the conduct, or fully remediated the concerns. Having regard to all of these factors the panel may agree that temporary removal from the register would be insufficient to protect patients, public confidence and professional standards.

Strike Off: The concerns do raise fundamental questions about Mrs Morrells professionalism whereby public confidence in the profession would be maintained unless Mrs Morrell is removed from the register. Therefore striking Mrs Morrell from

the register would be the only sanction sufficient to protect patients, members of the public and maintain standards and confidence within the profession and the NMC as its regulator. However the panel may conclude that on the basis that Mrs Morrell has made admissions to the charges, demonstrated remorse and provided some insight, together with training around Duty of Candour that such a sanction may not be proportionate and to mark the serious nature of the conduct temporary removal from the register would be appropriate and proportionate.'

The panel also bore in mind Mrs Morrell's representative's following written submissions:

'Should the Panel be minded that the Registrant is currently impaired, then the following submissions are made regarding sanction.'

It is of note that within the NMC's CMF there are two sanction bids: a suspension order or a striking-off order. It is submitted that given the Registrant's honesty and acceptance of the charges, alongside the remediation work and insight she has demonstrated that a striking-off order would be disproportionate in the circumstances. As the Panel is required to impose the lowest possible sanction to meet the charges, it is submitted that a Caution Order would be the most appropriate to mark the charges, but allow the Registrant to continue to work without restriction. In the alternative, it is submitted that a conditions of practice order would allow the Registrant to continue to work but be monitored to ensure that there is no risk of repetition.'

Decision and reasons on sanction

Having found Mrs Morrell's 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:

- Breach of professionalism through dishonesty and representing competency
- Breach and abuse of trust
- Personal financial gain
- Dishonesty linked to clinical practice
- Insight that could be regarded as developing
- Lack of candour
- Premeditated planned/deliberate conduct
- Risk of patient harm
- Pattern of misconduct over a period of time in relation to Charge 6.

The panel also took into account the following mitigating features:

- [PRIVATE]
- Full admission of charges
- Level of remorse.

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

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mrs Morrell's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mrs Morrell's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mrs Morrell's 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 misconduct in this case. Some of the misconduct identified in this case was not

something that can be addressed through retraining, specifically the element of premeditated dishonesty. Furthermore, the panel concluded that the placing of conditions on Mrs Morrell's registration would not adequately address the seriousness of the concerns in this case and would not protect the public or the public interest.

The panel then went on to consider whether a suspension order would be an appropriate sanction. 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 misconduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Mrs Morrell's actions is fundamentally incompatible with Mrs Morrell 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 raise fundamental questions about their professionalism?*
- *Can public confidence in nurses be maintained if the nurse 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?*

In relation to the first question, the panel determined that the concerns do raise fundamental questions about Mrs Morrell's professionalism. She was dishonest in misleading the agency and submitting a reference, falsely indicating a colleague had signed it by forging their signature, for her own financial gain. As a Band 7 registered nurse she would have known her professional obligations.

With regards to the second question, the panel answered it in the negative. The seriousness of Mrs Morrell's premeditated dishonesty on two occasions, her lack of candour about what she had done, as well as working outside the scope of her competency over a significant period of time means that public confidence in the profession would not be maintained if she is not removed from the register.

In response to the third question, the panel determined that a strike off is the only sanction that would be sufficient to protect members of the public, patients and to maintain professional standards.

Mrs Morrell's actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with her remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Mrs Morrell's actions were serious and to allow her to continue practising as a registered nurse 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, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the matters it identified, in particular the effect of Mrs Morrell's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct herself, the panel has concluded that nothing short of this would be sufficient in this case.

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

This will be confirmed to Mrs Morrell in writing.

Interim order

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

Representations on interim order

The panel took account of the representations made by the NMC that state the following:

'If a finding is made that Mrs Morrell's fitness to practise is impaired on public protection and public interest grounds, and a restrictive sanction imposed, we consider an interim order is necessary in the same terms as the substantive order for a period of 18-months. This will cover the initial period of 28-days before the sanction comes into effect and any period if Mrs Morrell decides to lodge an appeal.'

Mrs Morrell's representative did not provide representations in relation to the making of an interim order.

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. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's

determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months to 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 Mrs Morrell is sent the decision of this hearing in writing.

That concludes this determination.