Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing

Nursing and Midwifery Council
2 Stratford Place, Montfichet Road, London, E20 1EJ
Wednesday, 29 November 2023 – Thursday, 30 November 2023

Virtual Hearing
Friday, 1 December 2023 – Wednesday, 6 December 2023,
Wednesday, 3 April 2024 – Thursday, 4 April 2024

Name of Registrant:	**Wayne Soyer**
NMC PIN	14I3254E
Part(s) of the register:	Registered Nurse – Sub part 1 Mental Health Nursing - 7 July 2016
Relevant Location:	Harrow
Type of case:	Misconduct
Panel members:	Louise Fox (Chair, Lay member) Sandra Lamb (Registrant member) Sophie Kane (Registrant member)
Legal Assessor:	Tracy Ayling **(29 November 2023, 1 December 2023, 4 – 6 December 2023)** Michael Levy **(30 November 2023)** Marian Gilmore KC **(3 April 2024 – 4 April 2024)**
Hearings Coordinator:	Amanda Ansah **(29 - 30 November 2023, 1 - 6 December 2023)** Yewande Oluwalana **(3 April 2024 – 4 April 2024)**
Nursing and Midwifery Council:	Represented by Michael Smalley, Case Presenter
Mr Soyer:	Present and represented by Deborah Tompkinson, Counsel instructed by Royal College of Nursing (RCN)
Facts proved by admission:	Charges 1, 3, 4

Facts not proved:	Charges 2a and 2b
Fitness to practise:	Impaired
Sanction:	**Strike-off order**
Interim order:	**Interim suspension order (18 months)**

Decision and reasons on application to amend the charges to include a dishonesty charge

The panel heard an application made by Mr Smalley, on behalf of the Nursing and Midwifery Council (NMC), to include an additional charge of dishonesty to the schedule of charges. The application was made under Rule 28 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The proposed amendment was to address the dishonesty element in relation to your actions in charge 3, in that you sought to conceal your actions in charge 1. Mr Smalley submitted that it is necessary to open the case to some extent to give context to the application. He submitted that you were a registered nurse at Cygnet Hospital (the Hospital) and Patient A was admitted to that hospital in February 2017. He reminded the panel that charge 1 represents the clinical concerns that are central to your trustworthiness and submitted that maintaining professional boundaries is of vital importance between healthcare professionals and patients.

Mr Smalley submitted that there is an imbalance of power between healthcare professionals and their patients where clear boundaries are not maintained, and this can cause significant harm to a patient. He submitted that in this case, the imbalance is particularly apparent due to the nature of Patient A's health conditions and her vulnerability. Despite this, you chose to pursue and engage in a sexual relationship with Patient A, who had days before, been discharged from the hospital.

Mr Smalley submitted that had Patient A not referred the matter initially to the police, this concern would have never come to light. He referred the panel to extensive messages exchanged between you and Patient A on WhatsApp detailing the measures you planned to take if your relationship was discovered. The nature of this agreement dating back to 2017 appears that you would lie about the relationship and keep it private between yourself and Patient A.

Mr Smalley further submitted that the fact that Patient A appeared happy to go along with this agreement may evidence the power you had over her at that particular time. Mr

Smalley referred the panel to Patient A's referral and the statements she provided detailing the relationship. He submitted that you have accepted charge 3 in that you failed to disclose the fact that you had a relationship with Patient A when asked by your employer, and it is the NMC's case that this failure to disclose the relationship at that time was a continuation of the plan that you hatched in 2017 to cover up and lie about the relationship if it was found out.

Mr Smalley submitted that this amounts to dishonesty and if the NMC are to allege this, then it is only fair that the charge should be laid out to you in a separate charge so that you can properly answer as to whether you accept that you were dishonest, whether you dispute this, or whether there is some other explanation for your actions:

> **"**That you, a registered nurse:
>
> 3. On 8 October 2020, when being made aware of the allegation that you had entered into an inappropriate relationship with Patient A, failed to disclose the relationship to your employer.
>
> **4. Your actions in charge 3 were dishonest in that you sought to conceal the facts of charge 1.**
>
> And in light of the above, your fitness to practise is impaired by reason of your misconduct."

It was submitted by Mr Smalley that the proposed amendment would accurately reflect the evidence considered by the panel. Mr Smalley submitted that although the notice of hearing did not include this charge, it was decided following a review of the case prior to this hearing that there were issues of dishonesty, and this was outlined to your representative on 20 November 2023 by way of a notice of intended amendment. The NMC did not receive any notice of objection to this amendment prior to today's hearing and there is no new evidence in this case.

Mr Smalley submitted that under Rule 28 the panel has the power to make this change and can do so without any injustice to the parties. He further submitted that a failure to implement this change would be a failure to set out the extent of the regulatory concerns.

The panel heard submissions from Ms Tompkinson, on your behalf, that the application should be refused as the NMC had enough time to bring forward this charge before the beginning of this hearing. She submitted that you have admitted to most of the charges and have been open and honest. She submitted that being given nine days' notice of the intention to bring forward such a serious charge is unjustified.

Ms Tompkinson submitted that you have made admissions to the more serious allegations of sexual misconduct and impairment, which is likely to result in a serious sanction and therefore, there is no need for additional charges. She informed the panel that the issue of dishonesty had been raised twice before, firstly by the Hospital, and then by the NMC as a potential charge following the Hospital's referral. The hospital did not pursue the charge of dishonesty, it focused on the sexual misconduct and referred the matter to the NMC. She submitted that the NMC upon receiving the referral, investigated, and presented all of the information that is now before the panel, yet the Case Examiners did not proceed with a dishonesty charge.

The panel accepted the advice of the legal assessor and had regard to Rule 28 of the Rules.

The panel was of the view that such an amendment, as applied for, accurately reflected the evidence and was in the interest of justice. The panel considered that although the notification of this application was very close to the start of the hearing, you and your representative had sufficient time to be able to respond to the allegation, and no new evidence was being adduced. The panel determined that a charge of dishonesty is serious and should be properly considered in order to protect the public.

The panel was satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore

appropriate to allow the amendment, as applied for, to reflect the evidence being considered.

Details of charges (as amended)

That you, a registered nurse:

1) Between 27 March 2017 and June 2018 breached professional boundaries in that you:

    a) Contacted Patient A without clinical reason;
    b) Exchanged messages via WhatsApp with Patient A without clinical reason;
    c) Met Patient A without clinical reason;
    d) Entered into a relationship with Patient A and
    e) The relationship in charge 1 d) above was sexual.

2) On a date unknown between 19 February 2017 and 24 March 2017, having discovered Patient A had self-harmed:

    a) Failed to raise an incident report and/or
    b) Failed to report or escalate the matter

3) On 8 October 2020, when being made aware of the allegation that you had entered into an inappropriate relationship with Patient A, failed to disclose the relationship to your employer.

4) Your actions in Charge 3 were dishonest in that you sought to conceal your actions in Charge 1.

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

Decision and reasons on application to admit vulnerable witness Patient A's evidence

Ms Tompkinson invited the panel to consider Rule 23 in relation to vulnerable witnesses. She submitted that the panel should permit her not to cross examine Patient A, alternatively to limit her questioning or alternatively to allow her just to *"put"* her case to Patient A. She submitted that it was in the interest of Patient A to apply such limitations to cross examination as Patient A was [PRIVATE]. [PRIVATE]. In addition, Ms Tompkinson submitted that there was very little of your case which could be put to the witness as she was unlikely to be aware of matters such as staffing levels. Alternatively, such cross examination would require a trawling through of WhatsApp messages and the pointing out of inconsistencies which was unnecessary and laborious.

[PRIVATE]. [PRIVATE].

Ms Tompkinson also referred to the case of *R v RK* [2018] EWCA Crim 603 at paragraph 27 but submitted that that case referred to a very young child. Whilst the Court of Appeal had moved towards the putting of a case in cross examination, it was not necessary in every case.

In response, Mr Smalley submitted that the witness was willing and able to give evidence. Patient A had specifically requested a hearing in person so that she could attend. [PRIVATE].

The panel accepted the advice of the legal assessor which included advising the Panel that it had no power under Rule 23 to order how cross examination should proceed and it was a matter for Ms Tompkinson on how she conducted her cross examination. [PRIVATE].

The panel decided that it had no power to order the limitation or scope of cross examination at this stage. [PRIVATE]. [PRIVATE]. The panel decided that it would, as

[PRIVATE] and as long as the questions asked were, relevant, fair, and short it would not embark on restricting or curtailing cross examination.

Background

The charges arose whilst you were employed as a registered mental health nurse by the Hospital, on Byron Ward ('the Ward'), an acute mixed sex ward for patients with mainstream mental health disorders. Patient A was admitted to the Ward on 19 February 2017 [PRIVATE].

Patient A first met you when she was admitted to the Ward [PRIVATE]. You were not her allocated nurse, but you were involved in her care in terms of administering medication and occasional one-to-one supervision sessions.

It was alleged that when Patient A [PRIVATE], you found out, but failed to report it in line with the normal procedure. Patient A suggests that this may have had a bearing on whether she was ready to be discharged, although she notes that she was a voluntary patient and she discharged herself on 24 March 2017. Patient A recalls giving you a piece of paper as she was leaving the Ward, which had her mobile number on it, and she says that she received a WhatsApp message from you three days later on 27 March 2017.

Patient A confirmed that you met for coffee on the same day and began a relationship at that point. Patient A described being in contact with you, on and off, until June 2018 and the relationship became a "*fully sexual*" one on 31 March 2017 until October 2017. Patient A said that she ended the relationship in October 2017 and your behaviour made the breakup very difficult. She said that you turned up at her home in late October 2017 and you continued to message her so, ultimately, contact did not end until June 2018.

In early 2020, Patient A reported you to the Police and, although they subsequently took no further action, they contacted the Hospital, and an internal investigation took place around October 2020. The Police concluded that there was no criminal activity, but they

had found evidence of inappropriate behaviour from you towards Patient A and had safeguarding concerns. They informed the Hospital that you had initiated inappropriate contact with Patient A and these concerns were escalated to the Care Quality Commission. You were suspended from the hospital on 8 October 2020. It is alleged that you failed to declare your relationship with Patient A at the time of your suspension on 8 October 2020, when you were asked about it.

You were interviewed formally on 23 November 2020 when you then admitted to the whole relationship with Patient A, initiating the contact on 27 March 2017. You were dismissed on the grounds of gross misconduct with immediate effect on 1 December 2020.

Decision and reasons on facts

At the outset of the hearing, the panel heard from Ms Tompkinson who informed the panel that you made full admissions to charges 1, 3, and 4.

The panel therefore finds charges 1, 3 and 4 proved in their entirety, by way of your admissions.

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Smalley and by Ms Tompkinson.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

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

- Witness 1: Patient A

The panel took into account the written statement provided by Witness 2, the Clinical Manager of the Hospital, which had been agreed by you and the NMC. It also heard live evidence from you under oath.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. She advised that for the panel to be satisfied that you failed to do something, it must be satisfied that you breached a duty to do it. The legal assessor also referred the panel to the NMC guidelines on credibility and demeanour.

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

Charge 2

2) '*On a date unknown between 19 February 2017 and 24 March 2017, having discovered Patient A had self-harmed*

   a) *Failed to raise an incident report and/or*
   b) *Failed to report or escalate the matter.'*

These charges are found NOT proved.

In reaching this decision, the panel first considered whether you had discovered that Patient A had self-harmed between the dates alleged. The panel determined that it did not have sufficient evidence before it to prove on the balance of probabilities, that you discovered Patient A had self-harmed during her stay on the ward. The panel looked at the objective evidence and objective facts in reaching this decision and was of the view that there was no reliable contemporaneous evidence that you were on duty and/or had an opportunity to interact with Patient A during the time of the alleged incident.

The panel accepted your evidence about the number of shifts you worked and your level of interaction with patients when assigned different responsibilities on a shift. This evidence was generally unchallenged. The panel also noted that Patient A had not

provided a date for the incident in her witness statement or oral evidence. Therefore, there was no evidence before the panel to establish whether or not you were on duty at that time.

The panel concluded that there was no objective evidence to suggest that you had discovered the self-harm incident, or that another nurse possibly knew about the incident and also failed to escalate or report it. The panel noted there was no evidence to suggest that anyone else had seen that Patient A had self-harmed.

The panel accepted the evidence that Witness 2 was unable to find any documentation or reference in Patient A's notes that she had self-harmed during her stay on the ward. However, Witness 2's failure to find any documentation did not lead the panel to draw an inference that you knew that Patient A had self-harmed, and you had not reported it. On the objective evidence before it, the panel was not satisfied on the balance of probabilities, that you had discovered that Patient A had self-harmed.

The panel determined that the NMC has not discharged the burden of proving that you had discovered that Patient A had self-harmed. As the NMC have failed to do this, it cannot be said that you failed to carry out the actions outlined in charges 2a and 2b. It follows that you would not have been required to raise an incident report and/or report or escalate the matter. The panel therefore finds these charges not proved.

Submissions on an application for an interim order

Before the panel had finished its deliberations on misconduct and current impairment the hearing had to be adjourned due to lack of time on 6 December 2023.

Mr Smalley made an application under Rule 32 of the Rules, as the panel had not handed down its decision on misconduct and impairment. He submitted that an interim suspension order should be imposed whilst the matter was adjourned and comes back for determination on current impairment and sanction. He submitted that the application was made on the basis that an order is necessary in the public interest in that public confidence in the profession would be undermined if an interim order were not made in

the circumstances of this case. You have made admissions to sexual impropriety with a patient and dishonesty, two charges that are at the height of seriousness in terms of allegations that a nurse can face.

Mr Smalley submitted that the application was not being made on the grounds of public protection, given that the panel is still deliberating on that issue. However, with regards to the public interest, although the bar is set high for imposing an interim order on this ground only, given the circumstances of this case and the seriousness of the allegations which are now proved, the panel should impose an interim suspension order. He submitted that the interim order can be for up to 18 months, however, the length of the interim suspension order sought was very much dependent on when the panel can return to conclude the hearing.

The panel also took into account the submissions of Ms Tompkinson who submitted that these are not circumstances where it was necessary to make an interim order. She submitted that you have had no previous adverse findings against you, and you have cooperated with the NMC's investigation. Most importantly, some of your admissions including the most serious, go back three years and you have posed no risk at all to the public for the last three years.

Ms Tompkinson submitted that for the last three years, no application has been made by the NMC and in practical terms, nothing significant has changed. The addition of dishonesty was something that could have been done at any stage, and if it were to have been done, ought to have been done long ago. She further submitted the formal findings that the panel have made have been made on the basis of matters admitted and in the case of the sexual allegations, they were admitted three years ago. She submitted that in some respects, the situation is slightly less serious because the panel had dismissed the failure to report self-harm allegations and over the last three years, there had been simply no repetition, no suggestion of a repetition and no further disciplinary allegations or hearings.

Ms Tompkinson submitted that your insight has been developing over the last three years and the panel had seen evidence of this. A well-informed member of the public is

going to be asking themselves that if you are a risk now, why were you not a risk in the last three years and why was this application not brought in August 2023 when you admitted not only the sexual misconduct again, but also that your fitness to practise is impaired. [PRIVATE]. In light of this, the panel may feel that the risk to the public is very low.

[PRIVATE].

Ms Tompkinson submitted that you do not pose a risk to the public interest now, but public confidence would be seriously damaged if your practice was restricted now when you have held unrestricted registration for the last three years. She submitted that [PRIVATE] and bearing in mind there is a very high threshold for an interim order on the bases of public interest alone, the panel is invited to make no interim order.

Decision and reasons on interim order

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

The panel was satisfied that an interim order is necessary on the wider public interest ground. The panel is satisfied that although there is a high bar for this ground, this has been met given the seriousness of the facts found proved. The panel determined that a well-informed member of the public would be concerned if an interim order were not made in these circumstances.

The panel considered the imposition of an interim conditions of practice order but determined that this would not be appropriate as the order is not being imposed on the ground of public protection. The panel could not formulate conditions to address the dishonesty which you have admitted.

The panel therefore imposed an interim suspension order for a period of nine months to provide the time needed for the NMC to relist this case for conclusion.

Fitness to practise

The hearing was resumed on 3 April 2024.

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 safely, professionally and kindly.

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. Second, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, your fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

In coming to its decision, the panel had regard to the case of *Roylance v General Medical Council (No. 2)* [2000] 1 AC 311 which defines misconduct as a *'word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.'*

Mr Smalley invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of 'The NMC code of professional conduct: standards for conduct, performance, and ethics (2015) (the Code) in making its decision.

Mr Smalley identified the specific, relevant standards where your actions amounted to misconduct. He asked the panel to consider guidance drafted by the Professional

Standards Authority or the Council of Healthcare Regulatory Excellence as it was known when those were published, and drew the panel's attention to the clear guidance available to all clinical practitioners, (not just nurses), but all clinical practitioners covered by the Professional Standards Authority identifying that it is the responsibility of healthcare professionals to establish and maintain clear sexual boundaries with patients and carers.

Mr Smalley submitted that in the circumstances of this case, the panel should conclude that there has been misconduct in relation to all of the charges found proved, particularly in relation to the engaging in a sexual relationship with Patient A, and thereafter, being dishonest about that relationship. He submitted that should the panel agree that the charges amount to serious misconduct, it should then consider the issue of current impairment.

Ms Tompkinson submitted that you have admitted that the facts the panel had found proved, amount to misconduct and it was clear that you understood that they amounted to serious misconduct. She submitted that this is an issue for the panel to now determine.

Submissions on impairment

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

Mr Smalley submitted with regards to current impairment, this is not defined in the Nursing and Midwifery Order of 2001 or within the rules. However, it is approached by addressing the questions posed by Dame Janet Smith in the fifth shipment report as endorsed by Mrs Justice Cox in the leading case of *CHRE v NMC and Grant*. He

reminded the panel that when he addressed you on the test within this case, you agreed that all four limbs were engaged. The four limbs are:

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.'*

Mr Smalley submitted that you have in the past, placed Patient A at an unwarranted risk of harm and caused psychological harm in terms of a loss of trust in the healthcare professions. He submitted that those actions have brought the profession into disrepute and, in turn have breached fundamental tenets of the nursing profession. Further, you have admitted the charge of dishonesty, therefore you have in the past, acted dishonestly.

Mr Smalley reminded the panel that impairment is a forward-thinking exercise which looks at a registrant's practice following concerns that have been raised. He referred the panel to the NMC Guidance set out in FTP-3A which assesses the seriousness of regulatory concerns and outlines three factors the panel need to consider when determining seriousness: concerns that are likely to place patients at risk, concerns that are likely to undermine public confidence in the profession, and concerns that are more difficult to put right now. The guidance specifically identifies that relationships with patients breaches the guidance on clear sexual boundaries and is identified as a concern that is more difficult to put right. Mr Smalley submitted that the NMC's answer

to the first question outlined in *Ronald Jack Cohen v General Medical Council* [2008] EWHC 581 (Admin) *(Cohen),* was that these concerns are not easily remediable. The same can apply to the concern of dishonesty, which you have admitted, as dishonesty is an attitudinal concern as opposed to a specific clinical concern, so this is also something that more difficult to put right.

Mr Smalley submitted that the prime question for the panel in determining current impairment in line with *Cohen*, would be whether the concerns have been remedied and although this will be the panel's decision, it was the NMC's position that they have not yet been put right and the insight is not complete in relation to matters of maintaining sexual boundaries between patients. He further submitted that with regards to the risk of repetition, [PRIVATE]. [PRIVATE].

Mr Smalley submitted that in answering the final question in *Cohen*, whether it is highly unlikely that the conduct is to be repeated at this stage, the panel may consider that there are factors to suggest that you are beginning to remediate the concerns and reduce the risk of repetition. However, the risk is not fully eliminated at this stage therefore a finding of impairment on public protection grounds should be made.

Mr Smalley submitted that when considering current impairment, panels should consider not only whether a practitioner continues to present a risk to members of the public in their 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. He submitted that given the significant departure from behaviour that would be expected from a registered nurse, it was the NMC's position that a member of the public would be shocked if a finding of impairment were not made in this case to uphold public confidence in the profession and to uphold public confidence in proper professional standards. He submitted that by declaring that your behaviour in engaging in a relationship with a vulnerable patient, days after her discharge from hospital, is unacceptable behaviour for a registered professional and in those circumstances, a finding of current impairment should also be made on public interest grounds.

Ms Tompkinson submitted that you have admitted that your fitness to practise is currently impaired by reason of your admission to entering into a relationship with Patient A. She reminded the panel that it is difficult for a registrant who is faced with the admissions you have made, to prove a negative, and prove that their behaviour will not repeat itself. She submitted that the panel should have regard to your past regulatory history and that at the time of the events, you were of unblemished character with no previous regulatory or disciplinary history.

Ms Tompkinson reminded the panel that you were recently qualified as a nurse at the time, and you were working as a healthcare support assistant since October 2008. She submitted that the charges relate to the same relationship and can be described as an isolated mistake, although there are several different aspects to this mistake, and it was one with terrible consequences for yourself and for Patient A.

Ms Tompkinson submitted that in considering whether or not these concerns would reoccur, the panel should consider your candid admissions to very serious charges at early stages of these proceedings. You admitted charge 1 at the investigatory meeting, you admitted charge 4 as soon as it was added to the schedule of charges, and you admitted charge 3 although it was subject to greater delay. However, the fact that you admitted it when it was formally put to you in the case management form does show the development of insight in operation.

Ms Tompkinson submitted that your admission to the most serious charge of being in a relationship with Patient A is evidence of insight as it shows that you understand that it was wrong. Although you will never do it again, a concerned member of the public might nevertheless expect some mark of disapproval to be made by the panel. She reminded the panel that you have tried to investigate your own motives, and this can be demonstrated in your reflective statement.

Ms Tompkinson submitted that your earliest reflective statement in December 2020 [PRIVATE].

Ms Tompkinson told the panel that you have shown insight and self-criticism into your actions and have accepted that your good intentions were naive. You have shown that you understand that your actions caused patient A problems of trust with the health service and stated in your reflection: *"I realised that my actions caused* [Patient A] *difficulties with trust in the health service and I am honestly sorry to hear that I have contributed to this."*

Ms Tompkinson submitted that the panel should have regard to the issue of context with regards to this case. She submitted that there were suggestions that Patient A was in contact with other members of staff from the ward after she left the hospital, and there was a culture of acceptance around this. Ms Tompkinson submitted that two members of staff had received contact from a former patient but did not do anything about it as they should have, therefore it was the working environment and the culture of the hospital to have a relaxed attitude when it comes to patients contacting staff.

Ms Tompkinson reminded the panel that the question it should ask itself is whether you can practise safely, professionally and kindly. She submitted that you can as it has been seven years since the concerns arose and you have been working without restriction since then without any other regulatory complaint, and these disciplinary proceedings relate entirely to this subject matter. She further submitted that you are no longer in what appears to have been a *"poor working culture",* and punishment is not the objective. She submitted that the panel should find that your fitness to practise is not currently impaired by the finding of dishonesty that you accept, but that it is currently impaired by reason of the sexual relationship you entered into with Patient A and that is in the sense that some form of disapproval is merited.

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

Decision and reasons on misconduct

The panel first considered Ms Tompkinson's submissions on the contextual factors in this case. The panel concluded that this was not its understanding of the evidence as presented in the papers before it. The panel noted that Person B was a healthcare assistant, not a nurse, and the evidence of her contact with Patient A was in no way comparable to the relationship between you and Patient A. The panel was of the view that the evidence Ms Tompkinson raised was untested and noted that this was the first suggestion that there was a cultural acceptance of non-clinical contact between staff and patient, or that this had any impact on your behaviour. The submission that there was a cultural acceptance of this behaviour is unsupported by the clear evidence within the text messages exchanged between you and Patient A. Only one colleague was aware that you were in contact, and you both made efforts to conceal the relationship from them. The panel determined that your relationship with Patient A was a personal decision that you attempted to cover up for a significant period of time. The panel therefore rejected Ms Tompkinson's submissions on contextual factors and did not find that there was a culture of acceptance of this type of behaviour.

The panel then went on to determine whether the facts found proved amount to misconduct. In doing so, 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:

> *'**1 Treat people as individuals and uphold their dignity***
>
> *To achieve this, you must:*
>
> *1.1 treat people with kindness, respect and compassion*
>
> ***4 Act in the best interests of people at all times***
>
> ***8 Work co-operatively***
>
> *To achieve this, you must:*
>
> *8.6 share information to identify and reduce risk*

16 Act without delay if you believe that there is a risk to patient safety or public protection

To achieve this, you must:

16.3 tell someone in authority at the first reasonable opportunity if you experience problems that may prevent you working within the Code or other national standards, taking prompt action to tackle the causes of concern if you can

17 Raise concerns immediately if you believe a person is vulnerable or at risk and needs extra support and protection

To achieve this, you must:

17.1 take all reasonable steps to protect people who are vulnerable or at risk from harm, neglect or abuse

17.2 share information if you believe someone may be at risk of harm, in line with the laws relating to the disclosure of information

17.3 have knowledge of and keep to the relevant laws and policies about protecting and caring for vulnerable people

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

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

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

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

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

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 your actions within the charges

found proved amounted to misconduct. When considering your behaviour in charge 1, the panel found that any patient would not expect to be contacted by a registrant outside of their clinical relationship. The individual elements of this charge and the way the relationship then proceeded to be of a sexual nature, breached the professional boundaries and put Patient A, a vulnerable patient with mental health concerns, at an unwarranted risk of harm due to the power imbalance between you and Patient A. The panel was of the view that the initial contact you made with Patient A was inappropriate but then this contact was sustained for several months and from the tone of the messages exchanged, you knew that this relationship was wrong.

The panel had regard to the guidance from the Professional Standards Authority (PSA, previously the Healthcare Regulatory Excellence Standards). In this guidance, it is made clear that the responsibility lies with the professional in that it is up to them to stop the contact even if it had been initiated (in this case, by Patient A), in giving you her phone number. It was your responsibility to ensure that you stopped the contact and did not put yourself in a position where a relationship could be developed in the way it was. The panel noted that you accepted this when it was put to you by Mr Smalley during your oral evidence.

When considering your behaviour in charges 3 and 4, the panel determined that this amounted to misconduct. The panel was of the view that you had a duty of candour to disclose this relationship when you were asked about it on 8 October 2020. This was the second opportunity you had to admit the relationship and address your behaviour. When directly asked about the relationship during the investigation on 8 October 2020, you were dishonest as you lied about it entirely. The panel was of the view that these were not just failings, but a breach of trust with your employer, and of the fundamental tenets of the profession.

The panel therefore found that your actions in charges 1, 3 and 4 found proved 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 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/ fitness to practise is impaired in the sense that S/He:*
>
> *a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
>
> *b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
>
> *c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
>
> *d) has in the past acted dishonestly and/or is liable to act dishonestly in the future.’*

The panel determined that Patient A was put at risk and was caused harm as a result of your misconduct. The panel concluded that your misconduct which included dishonesty, had in the past breached fundamental tenets of the nursing profession, and therefore brought its reputation into disrepute. The panel considered the dishonesty in this case was particularly serious as you concealed the relationship for three years and despite a number of opportunities between 2017 and 2020, failed to admit to the relationship when questions were raised.

The panel noted that you accepted that you had breached all four limbs of the test when being cross-examined by Mr Smalley.

Regarding insight, the panel considered that your insight has developed, albeit gradually and has continued to develop during the course of these proceedings. The panel noted that there were opportunities for you to disclose the relationship when it was first investigated by the Hospital. It was of the view that if you had done this, [PRIVATE] , you may have been able to demonstrate a higher degree of insight at the time.

The panel had regard to your reflections submitted at the start of the hearing which do show some insight, into the impact on Patient A, [PRIVATE], into where your behaviour was wrong, and how it has impacted on the public. At the start of the resuming hearing the panel received a further reflection from you dated 21 March 2024. The panel considered this shows your insight has developed further in relation to the impact on Patient A and the importance of honesty and integrity in the nursing profession. This more recent reflection also demonstrates increased understanding of the potential damage to the reputation of the wider profession and shows that you understand where you breached elements of the Code.

However, the panel was concerned that your insight in relation to the dishonesty charges is not fully developed. The panel considered that your description of events as a '*single incident'* minimises the extent of the dishonesty which was perpetuated over a three-year period despite you having a number of opportunities to disclose the relationship to your employer. In addition, the panel did not accept your explanation in your most recent reflection as to why you did not disclose the relationship to your employer when the matter was investigated in 2020. You said you thought it was in your best interest to seek professional advice before admitting to allegations that were not fully disclosed to you. However, the panel concluded that you knew that you had had an inappropriate relationship with Patient A and that your employer was not aware of this.

The panel went on to consider what steps you have taken to strengthen your practice. It considered that regaining trust after a breach of sexual boundaries and dishonesty in the circumstances of this case is not easy. The panel carefully considered the evidence before it in determining whether or not you have taken steps to strengthen your practice. The panel took into account the fact that you have been working as a registered nurse since January 2021 up to the interim suspension period without any further concerns

raised. It also took into account the training course you undertook on professional boundaries, and your reflections on a number of topics including professional boundaries, duty of candour and emotional intelligence. The panel noted you admitted the charges early on in the NMC process, but given the nature of the evidence against you, it was of the view that challenging these charges would have been extremely difficult.

The panel noted the evidence you provided when being addressed on how you would manage a similar incident. It noted that you asked to be moved to another clinical area when you felt uncomfortable at work and acknowledged that this amounted to you taking steps to manage the risk. In addition, the panel noted [PRIVATE] and you said you understand the need to share concerns and seek advice when issues arise at work. The panel was satisfied that you have shown sufficient insight into the reasons the relationship occurred and the steps you need to take to prevent a repeat of this misconduct. Therefore, the panel determined that the risk of further sexual misconduct and breaching professional boundaries is very low.

The panel noted that you have apologised for your actions and stated that they would not happen again. However, having found that your insight into the dishonesty charges was not fully developed, the panel considered there is a risk of repetition. It was not satisfied that if you were under pressure and faced with a situation where you considered it was not in your best interests to be honest, that you will not be dishonest again. The panel therefore decided that a finding of impairment on the grounds of public protection is necessary in relation to the dishonesty charges.

The panel bore in mind that the overarching objectives of the NMC are 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 expect that a finding of impairment be

made with such serious charges found proved. Your conduct fell so far below the standards expected of a registered nurse and you have accepted this.

In addition, the panel concluded that public confidence in the profession would be undermined if its regulator did not find charges relating to this type of dishonesty extremely serious therefore the panel determined that your fitness to practise is impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired.

Sanction

The panel has considered this case very carefully and has decided to make a 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

Mr Smalley informed the panel that in the Notice of Hearing, dated 9 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.

Mr Smalley informed the panel that when considering sanctions for serious cases involving dishonesty and sexual misconduct, the public interest must be at the forefront of any decision that is made. He said the public interest includes protection of members of the public, including patients, the maintenance of public confidence in the profession, and the declaring and upholding of proper standards of conduct and behaviour within the profession. Any sanction, of course, must do no more than is necessary to meet that

public interest and must be balanced against a registrant's right to practise in their chosen career.

Mr Smalley referred the panel to the NMC guidance on *'Factors to consider before deciding on sanctions'* (Reference: SAN-1 last updated 27 February 2024). He identified the following aggravating features:

- The charges amount to an abuse of position of trust
- Pattern of misconduct over a period of time
- Placed Patient A at risk of harm and caused her harm
- Lack of insight in relation to the allegations of dishonesty
- Direct risk to patients

In relation to dishonesty, Mr Smalley referred the panel to *'Considering sanctions for serious cases'* (Reference: SAN-2, last updated 27 February 2024). He said that the guidance identifies instances when dishonesty is so serious and it calls into question whether a registrant should remain on the register, and he said that the following were engaged in your case. First deliberately breaching a professional duty of candour by covering up when things have gone wrong, especially if it could cause harm to people receiving care. Mr Smalley submitted that things went wrong in 2017 and that this was covered up for a period of three years and subsequently caused harm to Patient A. He further stated a misuse of power, he said you misused your position as a registered nurse who was providing care to Patient A who was a vulnerable victim. Mr Smalley said the guidance also lists personal financial gain from breach of trust, he said there was no financial gain in your case but there was personal gain on your behalf in terms of the relationship. He said that there was a significant breach of trust between you and your employer. Mr Smalley said there was direct risk to Patient A and finally there was premeditated, systematic and long-standing deception. He said this was a long-standing deception over a period of three years in which there were numerous opportunities for you to raise the issue of the relationship with Patient A but you did not.

Mr Smalley then referred to the sexual misconduct under the NMC Guidance SAN-2 as an aggravating feature. He said in this case there is an imbalance of power between a nurse and a patient, and there was a clear breach of that position of trust.

Mr Smalley identified the following mitigating features:

- Admissions to charges – he said this would need to be caveated against the overwhelming evidence in the case as identified by the panel it would have been extremely difficult to challenge the charges.
- Insight identified by the panel in relation to the sexual misconduct.
- Personal mitigation around 2017 and 2018.

Mr Smalley made reference to the case of *Kern v General Osteopathic Council* [2019] EWHC 1111 (Admin) (*Kern)*. He submitted that this case involves sexual misconduct which involves a dishonest cover up that is at the height of seriousness in relation to misconduct within the nursing profession.

Taking everything into consideration, Mr Smalley invited the panel to consider all the sanction orders available. However, he submitted that the only sanction that reflects the seriousness of the charges that have been found proved is one of a striking off order. He said a striking- off order would protect the public and is proportionate.

The panel also bore in mind Ms Tompkinson's submissions that sanction is the panel's decision and the least punitive should be imposed to meet the statutory demands.

Ms Tompkinson submitted that you admitted to the charges that were found proved and the charges that you contested, the panel found in your favour. She said that you have had no previous orders except from the interim order imposed by this panel in December 2023 whilst the case was adjourned. You have worked unrestricted for three years after you left your former employer, the Hospital. There have been no other regulatory proceedings against you.

Ms Tompkinson indicated the following aggravating feature, that the conduct as per NMC guidelines was at the higher end of the spectrum for serious misconduct. She said that in your oral evidence you accepted you were the nurse and Patient A was a vulnerable person. Ms Tompkinson stressed that Patient A was a former patient of yours and was not receiving care at the time that the relationship began or at any time

while it continued. Ms Tompkinson said it is a small distinction and it does not excuse the conduct entirely, but it should be noted.

Ms Tompkinson submitted that there were mitigating features the panel should consider. She said you were a registered nurse of good character save at the time of the misconduct. She said you were a healthcare assistant since 2008 and qualified as a nurse in 2016. [PRIVATE]. She said this was not a clinical failing and that Patient A was a former patient.

Ms Tompkinson said that you have shown remorse and there is evidence of remediation as you have undertaken specific training in professional boundaries. You have engaged with the process and admitted to the serious charges, and partially to impairment. She submitted that you now have support networks in place. Further, you have provided positive testimonials from your current employer and a former colleague who spoke highly of you as a nurse. She said in seven years there has not been a repeat of the conduct, and nothing has been mentioned by your current employer.

Ms Tompkinson submitted that you have shown your potential in developing your insight and taking steps to remediate your wrongdoing. You have shown commitment to the health and well-being of those in your care. She referred to your reflection statement of March 2024,

> *'By aligning my actions with evidence-based best practices and regulatory standards, I am better equipped to navigate complex ethical dilemmas and uphold the highest standards of care and integrity. Throughout my seven years as a mental health nurse, I have been deeply committed to providing exemplary care to my patients. I held leadership roles and worked in challenging situations in promoting high standards of care with good outcomes. I have supported colleagues to progress in the profession and I have always maintained professional standards while upholding integrity in the service. This dedication was especially evident during the challenging times of the corona virus/COVID-19 pandemic, where I was directly involved in the care and recovery of patients 5 diagnosed with the virus. Despite the unprecedented circumstances, I remained*

steadfast in my commitment to promoting the health and well-being of those under my care. The feedback received from these clients and their families served as a poignant reminder of the direct impact nurses have in promoting a healthy society. These experiences reinforced my appreciation for the nursing profession and reaffirmed my dedication to making a positive difference in the lives of others.'

Ms Tompkinson said that you want to continue practising as a nurse. She asked the panel to note from the case of *Kern* that erasure was not necessarily inevitable in cases of sexual misconduct. She invited the panel to mark the seriousness of the conduct but to consider the least possible sanction that can address the facts found proved.

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

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. It considered *'Considering sanctions for serious cases'* (Reference: SAN-2, last updated 27 February 2024*),* it also considered the guidance on sexual boundaries produced by the Professional Standards Authority and *Kern v General Osteopathic Council* [2019] EWHC 1111 (Admin).

Before looking at the aggravating features of the case, the panel had to consider the seriousness of the sexual misconduct and dishonesty. The panel noted in the SG on the seriousness of sexual misconduct it states *'Long-term or repeated conduct is more likely to suggest risk of harm, together with conduct involving imbalances of power…'* The panel identified that your sexual misconduct did cause Patient A harm which increased the seriousness. There was a breach of the position of trust by you as she was vulnerable and there was a clear imbalance of power between you and Patient A. The balance of power was greater as Patient A had been acutely ill just prior to the start of

the relationship and although she had discharged herself from the care of the hospital, she was still receiving treatment within the community from the service at the time. The panel therefore did not accept Ms Tompkinson's assertion that Patient A was no longer a patient when you contacted her and noted that within less than a week of her leaving the hospital you had contacted her and started the relationship. The panel found that the seriousness of crossing professional boundaries and engaging in an inappropriate sexual relationship was further aggravated by your dishonesty.

The panel next went on to consider the seriousness of your dishonesty. The panel considered that the dishonesty was compounded by the length of time it extended, the steps you took to try and keep the relationship secret, and your failure to disclose the relationship despite the opportunities. The panel noted however, that during the course of the fitness to practise proceedings, you admitted your dishonesty and have started reflecting on the impact. The panel was of the view that the initial dishonesty and the cover up of the relationship meets the seriousness threshold as it included a misuse of power, a vulnerable patient, and premeditated, systematic or longstanding deception.

The panel took into account the following aggravating features:

- Height of seriousness for sexual misconduct and dishonesty
- Limited insight into the dishonesty
- A pattern of misconduct over a period of time
- Actual psychological harm caused to Patient A
- Opportunities to tell employer at the time and made attempts not to let the employer know
- Damage to the reputation of the nursing profession

The panel also took into account the following mitigating features:

- Developed your insight into understanding the magnitude of your actions at the time and how it has impacted Patient A and the nursing profession. You have also shown some remorse.
- Remediated sufficiently the sexual misconduct and breach of professional boundaries so the risk to the public in relation to this is very low

- [PRIVATE].
- You were able to work unrestricted for three years with no concerns raised about your clinical practice or character.
- Positive testimonials from employer.

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 interest issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case, and it would not afford any public protection. 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 was not in respect of your clinical practice, but that of breaching professional boundaries by engaging in an inappropriate sexual relationship with Patient A for a significant period of time and dishonesty. The panel found that dishonesty was not something that can be easily addressed through retraining and suggested that there was a deep-seated attitudinal issue. The panel was unable to identify any workable or measurable conditions that would address this issue. In addition, the panel concluded that the placing of conditions on your registration would not adequately protect the public, address the seriousness of this case or address the wider 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:

- *Single instance of misconduct 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 conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel considered that this was not a single instance of misconduct, although it involved one patient, as the relationship and concealment continued for an extended period of time. The panel did consider that you had worked unrestricted for a period of three years with no repetition of the behaviour alleged since the incident and it noted your insight into your breach of professional boundaries and sexual misconduct and the positive testimonials. However, the panel determined that your lack of candour and dishonesty over such an extended period of time was evidence of a deep-seated attitudinal problem and you put your own interests ahead of those of Patient A. The panel was not satisfied that your insight into your dishonesty was sufficient to remove the risk of repetition. The panel considered that this outweighed the mitigation provided by your work as a nurse since the incident and the positive testimonials.

Therefore, the panel could not reconcile the serious breach of the fundamental tenets of the profession evidenced by your actions with you remaining on the register.

In this particular case, the panel determined that although a suspension order would protect the public it would not be a sufficient, appropriate or proportionate sanction to address the public interest.

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 determined that the regulatory concerns did raise fundamental questions about your professionalism. The panel noted the comments of the judge in the case of *Kern,*

> *'The crossing of the boundary into a sexual relationship with the patient, and that is a sexual relationship of any kind …, undermines the fundamental trust which patients put in their therapists and thus strikes at the heart of the relationship between doctor or any other health care professional, including osteopaths, and patient.'*

The panel considered that there was a very high public interest component in this case and confidence in the profession could be significantly undermined if a nurse who had crossed professional boundaries through a sexual relationship which had caused harm to a vulnerable patient and was dishonest about it for a period of three years was allowed to remain on the register. Therefore, the panel was not satisfied that public confidence in the profession, nor the upholding of professional standards could be maintained if you were not removed from the register. This would also provide protection to the public.

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 themself, the panel has concluded that nothing short of this would be sufficient in this case.

The panel considered that this order was necessary to protect the public, to mark the importance of maintaining public confidence in the profession and the regulator, 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 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 Mr Smalley that an interim suspension order should be made. He submitted that an interim order is necessary to protect the public and meet the wider public interest. He invited the panel to impose an interim suspension order for a period of 18 months to cover the appeal period and any appeal if made.

Ms Tompkinson made no submissions.

Decision and reasons on interim order

The panel was satisfied that an interim order is necessary to protect the public and is otherwise in the public interest. The panel had regard to the seriousness of the misconduct and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order. The panel considered an interim conditions of

practice order would be inappropriate as it was unable to formulate workable or measurable conditions for the same reasons as outlined in the substantive decision. It considered that to not impose an interim suspension order would be inconsistent with its earlier findings.

Therefore, the panel made 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 striking-off order 28 days after you are sent the decision of this hearing in writing.

This will be confirmed to you in writing.

That concludes this determination.