

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

**Substantive Hearing
Monday, 26 February 2024 – Thursday, 29 February 2024**

Virtual Hearing

Name of Registrant: **Cristina Giosanu**

NMC PIN 17C0003C

Part(s) of the register: Registered Nurse – Sub part 1
Adult Nursing – 1 March 2017

Relevant Location: London

Type of case: Misconduct

Panel members: Rachel Childs (Chair, Lay member)
Susan Field (Registrant member)
Jane McLeod (Lay member)

Legal Assessor: Lucia Whittle-Martin

Hearings Coordinator: Stanley Udealor

Nursing and Midwifery Council: Represented by Uzma Khan, Case Presenter

Mrs Giosanu: Present and unrepresented at the hearing

Facts proved: Charges 1a, 1b, 2a and 2b

Facts not proved: None

Fitness to practise: Impaired

Sanction: **Striking-off order**

Interim order: **Interim suspension order (18 months)**

Details of charge

That you, a registered nurse whilst working at Albany Nursing Home ('the Home')

- 1) On one or more occasions between July 2019 and December 2022:
 - a) took items from the Home that did not belong to you, to the value of approximately £2000;
 - b) left your shift at the Home for unknown periods of time, without authorisation, leaving the premises without a nurse on duty
- 2) Your actions as specified in charge 1a) were dishonest in that:
 - a) you knew the items did not belong to you;
 - b) you knew you did not have prior authorisation to take the items

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

Decision and reasons on application to amend the charge

The panel heard an application made by Ms Khan on behalf of the Nursing and Midwifery Council (NMC), to amend the wording of charge 1b.

Ms Khan submitted that it was apparent from Witness 1's evidence that the Home's premises were divided into three floors known as units. Each unit was allocated a nurse and four carers during the day shifts and a nurse with a carer on night shifts. Ms Khan submitted that it is the case of the NMC at charge 1b that you left your unit at the Home without a nurse on duty for unknown periods of time without authorisation. Therefore, the

NMC wishes to amend the wording of charge 1b to accurately reflect the evidence and to provide clarity to the charge.

The proposed amendments to the charges are as follows:

1) On one or more occasions between July 2019 and December 2022:

a)

b) left your shift at the Home for unknown periods of time, without authorisation, leaving the ~~premises~~ **unit** without a nurse on duty.

The panel heard submissions from you. You stated that you supported the application as you were not the nurse in charge of the entire premises of the Home but only your unit on the ground floor.

The panel accepted the advice of the legal assessor and had regard to Rule 28 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel was of the view that such an amendment, as applied for, was in the interests of justice. 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 ensure clarity and accurately reflect the evidence in this case.

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

Ms Khan made an application that this case should be held partly in private on the basis that proper exploration of this case involves references to matters relating to [PRIVATE]. The application was made pursuant to Rule 19.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

The panel determined to hear this hearing partly in private. It will go into private session as and when matters relating to [PRIVATE] are raised.

Background

The charges arose whilst you were employed as a registered nurse by Luccka Care Homes at Albany Nursing Home (the Home). On 15 December 2022, you were referred to the NMC by Witness 1, the Home Manager at the Home.

It was alleged that over a period of three years, beginning in July of 2019 until December of 2022, a number of items that belonged to the Home and its residents went missing. The approximate value of these items was said to be £2000. Witness 1 stated that some of the residents were reimbursed by the Home for the missing items and she made enquiries with staff, including yourself, about the missing items but they and you all claimed not to have any knowledge of the missing items' location.

Witness 1 alleged that it was around November 2022 that she noticed that an iPad, a Samsung tablet and a camera were missing from the Home. These items were issued for staff use for virtual meetings to take place and in order to take photographs of resident wounds. On 29 November 2022, Witness 1, with the assistance of another staff member, conducted a location search for the missing iPad and the location showed [PRIVATE] which was within walking distance of the Home.

Witness 1 checked on the staff database and discovered that you were living [PRIVATE]. She proceeded to your home with two other staff members on 29 November 2022. It was alleged that you reluctantly allowed them into your flat and they saw a large number of

items that belonged to the Home and to its residents, in your house. These items were then photographed and documented by them. It was alleged that you were apologetic, and you agreed to return all of the items to the Home.

It was alleged that you then returned various items over a two-day period to the Home, but not all items were returned. You were suspended by the Home on 29 November 2022 and an internal investigation commenced. On 6 December 2022, at the conclusion of the local disciplinary meeting, you were dismissed from the Home for gross misconduct. The Home also reported the alleged theft to the Police. However, Witness 1 explained that a decision was made not to further pursue those charges as a decision had been taken to refer the matter to the NMC. Therefore, the police case was closed without any further action taken.

Decision and reasons on facts

At the outset of the hearing, you admitted charges 1a, 1b, 2a and 2b but you disputed the value and timescale.

In reaching its decisions on the areas of dispute, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Ms Khan and submissions made by you.

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: Home Manager at the Home at the time of the incidents.

The panel also heard evidence from you under oath.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor.

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

Charge 1a

That you, a registered nurse whilst working at Albany Nursing Home ('the Home')

- 1) On one or more occasions between July 2019 and December 2022:
 - a) took items from the Home that did not belong to you, to the value of approximately £2000;

This charge is found proved.

In reaching this decision, the panel took account of the evidence before it, including the evidence of Witness 1 and your evidence.

The panel took into account that you had made partial admissions to this charge in that you admitted that you took items from the Home which did not belong to you. In the course of your evidence in chief, you denied that the timeframe of the theft occurred from July 2019, insisting that the first item you took from the Home was on 3 September 2022. However, during cross examination, you accepted that you may be wrong as to that. You also insisted that you did not take any item that belonged to residents at the Home but only items from communal areas and within general storage at the Home. Further, at the commencement of your evidence, you denied that the items you had taken from the Home amounted to the value of approximately £2000. However, during cross examination, you accepted that you may be wrong as to that and could not put a figure on the value of the items you had taken from the Home.

With respect to the timeframe of the theft, the panel took into consideration that Witness 1 stated in her oral evidence that a metal wall art picture and a blue wall picture belonging to the Home, which were amongst the items found at your house, were purchased by her before the coronavirus pandemic. She said she noticed that they were missing around 2021. The panel accepted this evidence of Witness 1 as she was consistent and clear in her account of the incident.

Furthermore, the panel had sight of the email chain from a family member of a resident at the Home. The first email from the email chain was dated 9 February 2022 in which the family member reported, following a visit that day, that a range of items was missing from the resident's room including an artificial orchid plant which had been brought in two weeks previously. The panel noted that the artificial orchid plant formed part of the items discovered in your house by Witness 1. The panel was of the view that it was reasonable to infer that you had taken the artificial orchid plant sometime between mid-January and 9 February 2022.

Based on the evidence before it, the panel was satisfied that, on the balance of probabilities, it was more likely than not that the timeframe of the theft started from around 2021 and not September 2022 as you claimed.

With regards to the ownership of the items taken from the Home, the panel took account of the witness statement of Witness 1 dated 24 May 2023 in which she stated:

'Upon entering the flat I immediately saw several chairs, armchairs, pillows, pillow covers, bedspreads, mugs, bowls, decorative items, wall pictures, Christmas decorations and many other items that belonged to Albany Nursing Home and some to the residents...'

Witness 1 further stated in her oral evidence that some of the items found in your house were taken from the boxes of items which were being prepared for probate on behalf of

one of the deceased residents at the Home. Several of the items were taken from different units of the Home.

The panel took into account the email chain from a family member of a resident at the Home. The first email from the email chain was dated 9 February 2022 in which the family member reported that a range of items was missing from the resident's room including the artificial orchid plant. The panel concluded from this that it was reasonable to infer that you had taken the artificial orchid plant from the resident's room, contrary to your evidence.

The panel therefore accepted the evidence of Witness 1, supported by the evidence of the email chain from the family member of a resident at the Home. It rejected your evidence in which you stated that you did not take any item from any resident as they were taken from the storage area of the Home.

With respect to the estimated value of the items, the panel took into account that Witness 1 provided the estimated value of some of the items taken from the Home. She was not asked to value each and every item recovered but listed some of the items and their estimated values as follows:

- Ipad (£500)
- Samsung Tablet (£200).
- Camera (£100).
- Projector (£150).
- Intravenous (IV) Drip Stand (£120).
- Compact Disc (CD) Player (£150).
- Microphone Set (£35).
- Maroon Velvet Chair (£60).
- Blue Fabric Armchair (£400).
- Canon Camera (£210).
- Floor Lamp (£20).

The panel noted that the total value of the items listed by Witness 1 was just under £2000 and this was not an exhaustive list of the items taken, which included a range of household items such as table mats, stackable napkin holders, mugs, trays, washing up liquid and toilet cleaner. It noted that although you had denied that the estimated value of the items was approximately £2000, you later did not challenge the estimated values of the list of items provided by Witness 1 during her oral evidence and accepted her account. On the basis of the evidence before it, the panel was satisfied that the estimated value of the items you had taken from the Home amounted to £2000.

In conclusion, having considered all the evidence before it, the panel was satisfied that on the balance of probabilities, it was more likely than not that, on one or more occasions between July 2019 and December 2022, you took items from the Home that did not belong to you, to the value of approximately £2000. Accordingly, charge 1a is found proved.

Charge 1b

That you, a registered nurse whilst working at Albany Nursing Home ('the Home')

- 1) On one or more occasions between July 2019 and December 2022:
 - b) left your shift at the Home for unknown periods of time, without authorisation, leaving the unit without a nurse on duty.

This charge is found proved.

In reaching this decision, the panel took account of the evidence before it, including the evidence of Witness 1 and your evidence.

The panel considered the witness statement of Witness 1 dated 24 May 2023 in which she stated:

'...The arrangement of Mrs Giosanu stealing such large items would, I believe involve planning which would have taken her away from her nursing role. This could have impacted residents and potentially put them at risk of harm if there was an emergency and she was not on the premises...'

'Albany Nursing Home has 61 beds and 3 units. When she works nights the ratio is 1 nurse and one carer per floor. In the day there is 1 nurse and 4 care staff per unit and the afternoon we have 1 nurse and 3 care staff. I am sure the larger items being taken would have certainly taken her away from the care she was giving to residents and would have left the floor without a nurse. Mrs Giosanu said that she took the items to her house and left them outside and went back to work...'

The panel took into account that you stated during your oral evidence that, on five occasions, your family member assisted you with taking some of the items from the Home with his van. You told the panel that you accompanied your family member on those occasions to take those items to your home and that these incidents occurred during your night shifts. You stated that you left your unit for a period of five to fifteen minutes at a time to take the items to your home and the incidents occurred between September 2022 and December 2022. You further accepted that you left your unit on those occasions without authorisation though you claimed that you usually informed the carer allocated to your unit that you would be “*outside*”. You admitted that you did not inform the nurses at other units when you left your unit and therefore, there was no nurse to cover your unit during the occasions when you left your unit.

Based on the evidence before it, including your admissions to the charge, the panel was satisfied that on the balance of probabilities, it was more likely than not that, on one or more occasion between July 2019 and December 2022, you left your shift at the Home for unknown periods of time, without authorisation, leaving the unit without a nurse on duty. Accordingly, charge 1b is found proved.

Charges 2a and 2b

- 2) Your actions as specified in charge 1a) were dishonest in that:
 - a) you knew the items did not belong to you;
 - b) you knew you did not have prior authorisation to take the items

These charges are found proved.

The panel noted that you had made admissions to these charges but, due to the fact that you are unrepresented and that you had made partial admissions to charge 1, it decided to make findings on these charges.

Having found charge 1a proved, the panel went on to consider whether your conduct in charge 1a was dishonest. In considering whether your conduct was dishonest, the panel had regard to the NMC Guidance on Making decisions on dishonesty charges, (DMA-7). It also had regard to the test laid down in the case of *Ivey v Genting Casinos UK Limited* [2017] UKSC 67 which provides:

- what was the defendant's actual state of knowledge or belief as to the facts; and
- was his conduct dishonest by the standards of ordinary decent people?

In applying the first limb of the test to this case, the panel took into account that you accepted during the Home's disciplinary meeting, in your reflective account form and during your oral evidence that you knew that you did not have prior authorisation to take the items and that they did not belong to you. You had admitted this charge. On the basis of all the evidence before it, the panel was satisfied that you were aware, at the time of the incidents, that the items did not belong to you, that you did not have prior authorisation to take the items and you intended to keep them.

In applying the second limb of the test to this case, the panel was satisfied that your conduct in charge 1a, which was repeated incidents of theft, would be considered dishonest by ordinary decent people.

Accordingly, the panel determined that your conduct in charge 1a was dishonest. Therefore, charges 2a and 2b are found proved.

Fitness to practise

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

Submissions on misconduct and impairment

Ms Khan submitted that it is the position of the NMC that the facts found proved amount to serious misconduct and that your fitness to practise is currently impaired on the grounds of public protection and public interest. She submitted that your unlawful and dishonest behaviour falls far below the standards expected of a registered nurse and that you cannot

practise safely, kindly or professionally as a registered nurse. She asserted that your conduct posed a risk of harm to residents at the Home in that you left the unit without a nurse on duty on repeated occasions.

Ms Khan submitted that your conduct amounted to a serious breach of the 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' ("the Code") and it is also a breach of fundamental tenets of the nursing profession due to the theft and dishonesty. It is a breach of trust in respect of the Home and its residents as they expected that their belongings at the Home should be safe from theft.

Ms Khan submitted that despite the discovery of thefts by the Home, you provided several accounts of the incidents, which changed repeatedly during the course of these proceedings. This demonstrates a limited insight into the gravity of your conduct and you had failed to strengthen your nursing practice in the areas of concern. Therefore, you pose a risk to the health, safety and the well-being of the public. Ms Khan referred the panel to the NMC Guidance on insight and strengthened practice.

Ms Khan submitted that your dishonest conduct occurred over a significant period of time, it was directly linked to your nursing practice and it was for personal gain. Therefore, your conduct is indicative of attitudinal concerns, which are often found to be more difficult to address. [PRIVATE]. She submitted that your personal circumstances at that time does not absolve you of your professional responsibilities set out in the Code nor of the criminal law as to what amounts to wrongdoing.

Ms Khan submitted that you have not fully understood the seriousness of the concerns, and the impact your conduct had, at the time, on the Home and its residents nor its impact on public confidence in the nursing profession. She submitted that your responses to the charges demonstrated a lack of insight into your actions and given the serious nature of the concerns, the risk of repetition remains.

In conclusion, Ms Khan invited the panel to find that your fitness to practise is currently impaired on both public protection and public interest grounds.

You informed the panel that you accepted that your conduct amounted to serious misconduct. You stated that you made a mistake, you regretted your actions and you have learnt from your mistake. You highlighted that the incidents occurred in the past and you have not repeated them. You asked for forgiveness and stated that you are ready to move forward from your past mistakes.

You told the panel that you are now a changed person, you are ready to be a role model for others and you will now uphold the provisions of the Code. You invited the panel to consider the positive references made on your behalf by your former employer and your current employer dated 27 April 2023 and 18 February 2024 respectively. You stated that your current colleagues at your workplace could also vouch for your good behaviour. You highlighted that you have had an otherwise unblemished nursing career before the incidents and you were regarded as one of the best nurses at the Home by your former manager and former colleagues at that time.

[PRIVATE]. [PRIVATE]. These circumstances led to your actions as found proved in the charges. However, you will not make such mistakes again.

You informed the panel that it has been a difficult period for you since you stopped working as a registered nurse as you love working as a nurse and this was the only career you have known all your life. You stated that you are an experienced nurse and the public should not be deprived from your abilities and experience. You have a lot to offer to the National Health Service (NHS).

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments.

Decision and reasons on misconduct

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

The panel was of the view that your actions did fall significantly short of the standards expected of a registered nurse, and that your actions amounted to a breach of the Code, specifically:

'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,*

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

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

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct.

With respect to charge 1a, the panel took into account that you took items that belonged to the Home and its residents. It considered that Witness 1 stated in her witness statement dated 24 May 2023 that '*These are very vulnerable residents in our nursing home and little things like having their own possessions around them bring them happiness...*' The panel noted that your conduct deprived residents of their possessions which caused distress to

them and their families. It was of the view that your conduct amounted to an abuse of the position of trust which exists between a nurse and a resident/patient.

The panel also considered that your conduct in taking items from the Home such as its iPad, Samsung tablet and IV drip stand, may have affected the capacity of the Home to discharge its duties to its residents effectively. It may also have had a negative financial impact on the Home as the panel noted that the Home had reimbursed on various occasion, the financial value of the items you had taken, to its residents.

Furthermore, the panel considered that your conduct was premeditated, wide-ranging and repeated on multiple occasions over a substantial period of time.

The panel therefore found your actions to be extremely serious and that they constituted a serious breach of fundamental standards of professional conduct and behaviour that a registered nurse is expected to maintain. Accordingly, the panel determined that your actions in charge 1a amount to misconduct.

With regard to charge 1b, the panel was of the view that your conduct in leaving your unit without a nurse on duty for unknown periods of time posed a risk of significant harm to the residents under your care. This risk was further heightened by the fact that, on such occasions, a carer and you were the only staff in charge of twenty-one residents on the ground floor unit during night shifts at the Home. The panel therefore determined that your conduct in charge 1b amounted to a dereliction of your nursing duties and fell short of the fundamental professional obligations that registered nurses have to residents under their care. Accordingly, it found that your conduct in charge 1b amount to misconduct.

With respect to charges 2a and 2b, the panel considers honesty, integrity and trustworthiness to be the bedrock of the nursing profession and, in being dishonest, it found you to have breached a fundamental tenet of the nursing profession and you brought the nursing profession into disrepute. The panel considered your actions to be extremely unprofessional, and that they would be seen as deplorable by other members of

the profession and members of the public. The panel considered that to characterise your actions as anything other than misconduct would undermine public confidence in the nursing profession. Therefore, the panel was in no doubt that your actions in charges 2a and 2b amount to misconduct.

Consequently, having considered the proven charges individually and as a whole, the panel determined that your actions did fall seriously short of the conduct and standards expected of a registered 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.

Registered 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 *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin) 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 found that all limbs of the Grant test are engaged in the case. At the time of these incidents, your misconduct placed residents under your care at unwarranted risk of harm, brought the nursing profession into disrepute, breached fundamental tenets of the nursing profession. Furthermore, it found that you had acted dishonestly.

The panel had regard to the NMC Guidance on Impairment especially the question which states:

'Can the nurse, midwife or nursing associate practise kindly, safely and professionally?'

The panel is aware that this is a forward-looking exercise and, accordingly, it went on to consider whether your misconduct is remediable and whether you had strengthened your nursing practice.

The panel had regard to the case of *Cohen v GMC* [2008] EWHC 581 (Admin), where the court addressed the issue of impairment with regard to the following three considerations:

- a. *'Is the conduct that led to the charge easily remediable?'*
- b. *Has it in fact been remedied?'*
- c. *Is it highly unlikely to be repeated?'*

The panel considered whether your conduct found in the charges proved is easily remediable. It was of the view that the concerns are very difficult to remediate due to their serious nature. Such persistent and premeditated dishonesty is, in the view of the panel, suggestive of deep-seated attitudinal concerns which are difficult to remediate.

Nevertheless, the panel went on to consider the efforts you had made to remediate. Regarding insight, the panel took account of your oral and documentary evidence. It was of the view that any insight is limited to repeatedly stating that you know that you have done wrong but this is not supported by any real understanding of how or why. The panel considered that although you made partial admissions to the charges, expressed remorse and apologised for your conduct, you had still sought to provide justifications for your actions. The panel was concerned that you failed to demonstrate any insight into the impact of your conduct on residents, their families, the Home, the nursing profession and the wider public. It noted that you have not demonstrated any understanding of the seriousness of your conduct, nor did you provide any information about detailed steps you would take to prevent such a situation re-occurring in the future.

In considering whether you have taken steps to remediate the concerns identified in this case, the panel noted that there was no evidence before it to indicate that you have strengthened your nursing practice in the areas of concern. The panel had sight of two unsigned testimonials. The first, dated 27 April 2023, related to your employment as a cleaner for an individual who described you as honest and reliable. The second, dated 18 February 2024, comprised a short email relating to your current employment as a security officer with a private company, describing you as reliable and showing good character. The panel attached limited weight to these documents, given the seriousness of the charges.

Additionally, you did not provide any evidence of training in the areas of concern to demonstrate any positive steps you had taken to remediate your conduct.

In light of this, this panel determined that there is a high risk of repetition and a consequent risk of harm to the public. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC 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 had regard to the serious nature of your misconduct and determined that public confidence in the profession, particularly as it involved dishonest conduct in a clinical setting, would be undermined if a finding of impairment were not made in this case. It was of the view that a fully informed member of the public, aware of the proven charges in this case, would be very concerned if you were permitted to practise as a registered nurse without restriction. For this reason, the panel determined that a finding of current impairment on public interest grounds is required. It decided that this finding is necessary

to mark the seriousness of the misconduct, the importance of maintaining public confidence in the nursing profession, and to uphold the proper professional standards for members of the nursing profession.

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

Sanction

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike your name 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

Ms Khan submitted that it is the NMC's position that a striking off order should be imposed given the findings of the panel that your fitness to practise is currently impaired.

Ms Khan submitted that taking no action or a caution order would not sufficiently address the seriousness of the concerns in this case and would not meet the wider public interest.

Ms Khan submitted that a conditions of practice order would also not be appropriate in this case given the degree of dishonesty and the fact that the charges found proved were not in relation to your clinical practice. She submitted that theft is an attitudinal concern and that although you had shown some remorse, you do not demonstrate that you fully appreciate the impact of your actions on the residents and their families. Such concerns could not be addressed effectively with a conditions of practice order nor could it address the serious nature of this case.

Ms Khan submitted that there are no workable conditions that could be formulated to address the actual risks that have been identified in this case.

Ms Khan submitted that a suspension order may be appropriate in cases where the misconduct is not fundamentally incompatible with the nurse continuing to be a registered professional and the overarching objective of public protection may be satisfied by a less severe outcome than permanent removal from the register. She referred the panel to the NMC Sanctions Guidance on suspension orders. She submitted that the checklist provided in the SG does not apply in this case.

Ms Khan submitted that your conduct was not a single instance of misconduct but it occurred over a significant period of time. She highlighted that you repeatedly returned at different times and on different dates to the Home to take items that belonged to the Home and its residents. She submitted that your conduct amounted to an abuse of your position of trust as a registered nurse, particularly as the residents in the Home were vulnerable. You also denied taking items from the Home and its residents when asked by Witness 1 until the items were traced to your house. Ms Khan asserted that your conduct was indicative of deep-seated attitudinal concerns.

Ms Khan highlighted that although you had shown some degree of remorse, your insight remains developing and limited as you have failed to show insight into the impact of your actions on the Home and its residents. She submitted that your conduct led to both financial and psychological harm to the residents at the Home. Also, your conduct in leaving your unit without a nurse on duty posed an unwarranted risk of harm to residents especially in an emergency situation. Ms Khan submitted that your conduct had a negative financial impact on the Home as it had to reimburse the value of the items you had taken to its residents. It also affected the reputation of the Home and the trust the residents and their families would have in it.

Ms Khan submitted that, based on these circumstances, a suspension order would not be an appropriate or proportionate sanction in this case.

With respect to a striking-off order, Ms Khan referred the panel to the NMC Sanctions Guidance on striking-off orders. She submitted that the concerns in this case could not be remediated as your actions were significant departures from the standards expected from a registered nurse. She submitted that your conduct breached fundamental tenets of the nursing profession and brought the nursing profession into disrepute.

Ms Khan therefore submitted that the most appropriate sanction in this case is a striking-off order. She submitted that your misconduct raises serious concerns about your professionalism and attitude, both of which are fundamentally incompatible with you remaining on the register. She submitted that a striking-off order is the most proportionate sanction to protect the public and maintain public confidence in the nursing profession.

You invited the panel to keep you on the register and to allow you to work under supervision as a registered nurse. You submitted that you are ready to work under any conditions of practice that the panel would deem fit to impose on your nursing practice. You stated that this would be beneficial to the NMC and the public as you are an experienced good nurse and there was no concern raised about your clinical practice. It would also enable you to keep your nursing skills up to date.

You told the panel that you acknowledged that you made a mistake and you had breached the Code. You stated that you need a second chance and another opportunity to demonstrate that you are now a changed person and can be trusted as a nurse. You suggested that you could be allowed to work in a voluntary capacity as a nurse either in a hospital or in the community. You stated that you enjoy working as a registered nurse and you will not be happy if you are removed from the register.

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- Misuse of power involving vulnerable residents.
- Dishonest conduct for personal gain.
- Abuse of a position of trust.
- Your conduct posed a risk of harm to residents both clinically and psychologically.
- Your dishonest conduct was premeditated, systematic and longstanding.

The panel also took into account the following mitigating features:

- Partial admissions to the charges at the outset of the hearing.
- Previous good character.

The panel had regard to the NMC Guidance on 'Considering sanctions for serious cases', in particular, 'Cases involving dishonesty', SAN-2. The panel found that your conduct was not a one-off incident nor was it a spontaneous action, but instead a premeditated and systematic course of conduct involving multiple dishonest acts over an extended period of time. This included organising for a family member to visit the Home on numerous occasions with their van to collect property from the Home. Your dishonest conduct demonstrated an abuse of position of trust in which you exploited vulnerable residents under your care and the Home for your personal gain. It was a longstanding deception in

which you sought to cover up your dishonest acts thereby breaching your professional duty of candour.

The panel therefore found the dishonesty in this case to be extremely serious and at the higher end of the spectrum of serious cases.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. It had found that you pose a risk of harm, had breached fundamental tenets of the nursing profession and your misconduct would undermine the public's confidence in the nursing profession if you were allowed to practise without restriction. The panel therefore determined that it would be neither proportionate nor in the public interest to take no further action.

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

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

'Conditions may be appropriate when some or all of the following factors are apparent:

- *no evidence of harmful deep-seated personality or attitudinal problems;*

- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- *.....;*
- *potential and willingness to respond positively to retraining;*
- *.....;*
- *patients will not be put in danger either directly or indirectly as a result of the conditions;*
- *the conditions will protect patients during the period they are in force; and*
- *conditions can be created that can be monitored and assessed.'*

The panel was of the view that the misconduct identified in this case could not be addressed through retraining and was difficult to remediate. It had also identified deep-seated attitudinal problems on your part. The panel determined that, given the seriousness of the concerns, the deep-seated attitudinal problems and your lack of insight into the severity and impact of your misconduct on residents, their families, the Home, the nursing profession and the wider public, there are no practicable or workable conditions that could be formulated. It was of the view that your request to be allowed to work under supervision, or in a voluntary capacity as a registered nurse, would not address the deep-seated attitudinal concerns in this case. Accordingly, a conditions of practice order would not address the risk of repetition and the continued risk of harm to the public. Consequently, the panel decided that a conditions of practice order would not protect the public nor be in 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 panel considered that this was not an isolated incident but rather a sustained pattern of behaviour over an extended period of time. It found that you failed to demonstrate any insight into the impact of your conduct on residents, their families, the Home, the nursing profession and the wider public. The panel noted that there was no evidence before it to indicate that you have taken any steps to remediate your misconduct. [PRIVATE]. [PRIVATE]. They are suggestive of deep-seated attitudinal concerns which heightens the significant risk of repetition. Therefore, the panel was not satisfied that a period of suspension would serve any useful purpose.

Consequently, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction and would neither protect the public nor satisfy the public interest consideration in this case.

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 was of the view that all of the criteria as set out above are met in this case.

The panel determined that your misconduct, as highlighted by the facts found proved, constituted a serious breach of the fundamental standards of professional conduct and behaviour that a registered nurse is expected to maintain. The panel found that your actions were significant departures from the standards expected of a registered nurse.

The panel concluded that the serious breach of fundamental tenets of the profession, evidenced by your actions and dishonest conduct, is fundamentally incompatible with you remaining on the register. The panel was of the view that the findings in this particular case raised serious and significant questions about your professionalism and to allow you to continue practising would undermine public confidence in the nursing profession and in the NMC as a regulatory body and this is the only sanction which would be sufficient to protect the public.

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 effect of your actions in bringing the nursing 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 a striking-off order 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 standards of behaviour expected and required of a registered nurse.

This will be confirmed to you in writing.

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the

protection of the public, is otherwise in the public interest or in your own interests until the striking-off sanction takes effect.

Submissions on interim order

The panel took account of the submissions made by Ms Khan. She submitted that, given that the panel has determined that a risk of repetition and a consequent risk of harm remains, an interim suspension order for a period of 18 months is necessary in order to protect the public and also in the public interest, to cover the 28-day appeal period before the substantive order becomes effective.

You stated that you opposed the application as you would like to be able to practise as a registered nurse.

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

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 in order to protect the public and otherwise in the public interest, during any potential appeal period. The panel determined that not to impose an interim order would be inconsistent with its earlier decisions.

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

That concludes this determination.