Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Meeting
Friday, 12 January 2024

Virtual Meeting

Name of Registrant:	Stacey Smith
NMC PIN	02I0219S
Part(s) of the register:	Registered Nurse – Adult RNA – 23 December 2006
Relevant Location:	Stirling
Type of case:	Misconduct
Panel members:	Shaun Donnellan (Chair, Lay member) Donna Hart (Registrant member) Mary Golden (Lay member)
Legal Assessor:	Nigel Ingram
Hearings Coordinator:	Hamizah Sukiman
Consensual Panel Determination:	Amended
Facts proved:	Charges 1, 2, 3 and 4
Facts not proved:	None
Fitness to practise:	Impaired
Sanction:	**Suspension order (6 months)**
Interim order:	**Interim suspension order (18 months)**

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that that the Notice of Meeting had been sent to Miss Smith's registered email address by secure email on 30 November 2023.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, the time, date and the fact that this meeting was heard virtually.

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

Details of charge

That you, a registered nurse;

1. On 15 October 2020 failed to assist colleagues to move Patient A with a hoist from a chair to a bed.
2. On 15 October 2020 left Patient A to sleep in her chair overnight.
3. On 16 October 2020 failed to inform day duty staff that Patient A had slept in her chair until 6am.
4. Failed to identify and/or escalate Patient B's low urinary output on the catheter.

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

Consensual Panel Determination

At the outset of this meeting, the panel was made aware that a provisional agreement of a Consensual Panel Determination (CPD) had been reached with regard to this case between the Nursing and Midwifery Council (NMC) and Miss Smith.

The agreement, which was put before the panel, sets out Miss Smith's full admissions to the facts alleged in the charges, that her actions amounted to misconduct and that her fitness to practise is currently impaired by reason of that misconduct. It is further stated in the agreement that an appropriate sanction in this case would be suspension order for a period of 12 months.

The panel has considered the provisional CPD agreement reached by the parties.

That provisional CPD agreement reads as follows:

> *'The Nursing & Midwifery Council ("the NMC") and Stacey Smith ("Miss Smith"), PIN 02I0219S ("the Parties") agree as follows:*
>
> 1. *Miss Smith is content for her case to be dealt with by way of a CPD meeting. Miss Smith understands that if the panel determines that a more severe sanction should be imposed or make other amendments to the provisional agreement that are not agreed by Miss Smith, the panel will adjourn the matter for this provisional agreement to be considered at a CPD hearing.*
>
> ***Preliminary matters***
>
> 2. *This is a misconduct case. There is reference to [PRIVATE]. It is agreed by the Parties that details of any [PRIVATE] should be redacted from any published public determination, to protect Miss Smith's right to privacy and in accordance with the NMC's publication guidance.*

The charge

3. *Miss Smith admits the following charges:*

   That you, a registered nurse;

   1. *On 15 October 2020 failed to assist colleagues to move Patient A with a hoist from a chair to a bed.*
   2. *On 15 October 2020 left Patient A to sleep in her chair overnight.*
   3. *On 16 October 2020 failed to inform day duty staff that Patient A had slept in her chair until 6am.*
   4. *Failed to identify and/or escalate Patient B's low urinary output on the catheter*

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

The facts

4. *Miss Smith appears on the register of nurses, midwives and nursing associates maintained by the NMC as a Registered Nurse – Adults and has been on the NMC register since December 2006. Miss Smith has [PRIVATE].*

5. *On 16 December 2020 the NMC received a referral about Miss Smith from Colleague C, the manager of Randolph Hill Nursing Home ("the Home"), where Miss Smith had been employed as a staff nurse since July 2018. The Home is a 60-bed nursing home, providing 24-hour care for residents, particularly elderly frail residents.*

6. *The Home provided Miss Smith with a pager to support her in her work, particularly [PRIVATE]. Miss Smith also elected to work night shifts, which she found less busy and easier for her to manage. Staff were aware of [PRIVATE].*

Charges 1 – 3

7. *During the night shift beginning on 15 October 2020, Miss Smith had overall responsibility for the residents on the ground floor of the Home. At 21.00 hours healthcare assistant ("HCA") Colleague A informed Miss Smith that Patient A was awake in her chair and needed to be put to bed. Patient A was a large resident with mobility issues. She required the use of a hoist, an extra-large sling and three staff to help her transfer at all times. At 23.00 hours Colleague A approached Miss Smith again to inform her that Patient A was still not in bed and sitting in her chair. At 01.00 hours, whilst completing pad checks on residents, Colleague A approached Miss Smith again to remind her that Patient A was still not in bed. At that point Miss Smith told Colleague A that Patient A could be put to bed once the pad checks had been completed.*

8. *Miss Smith went on her break at 01.45 hours and when she returned, Colleague A reminded her about Patient A and Miss Smith told Colleague A that she would get round to it. Miss Smith was attending to a resident in the room across from Patient A who was unwell. For the rest of the shift Colleague A continued to remind Miss Smith about Patient A but no action was taken. It was not until approximately 06.40 hours when Colleague A and Colleague B, another HCA, put Patient A to bed. At this point, Patient A had been in her chair for over 24 hours. The transfer was contrary to her care plan, which dictated the need for three people to transfer her. During handover to the day staff in the morning of 16 December 2020, Miss Smith did not inform her colleagues that Patient A had spent the night in her chair, to highlight the risk of consequent issues with skin integrity.*

9. *The matter was escalated to the Home's management, and Miss Smith was placed on a 4-week action plan to address communication and leadership concerns.*

Charge 4

10. *Patient B was a resident on the ground floor with a catheter in situ. He was unable to pass any urine without the catheter. Patient B's catheter was a known problem. Whilst catheters usually need to be changed every 12 weeks, Patient B's catheter typically did not last more than two weeks because it would frequently become blocked and not drain. He had been seen by urologists on several occasions about this issue. Staff were aware of the need to keep an eye on Patient B's catheter due to the risk of blockage. A blocked catheter could cause a resident discomfort and pain from having a full bladder but being unable to pass urine.*

11. *Comfort checks are to be completed on all residents every two hours. For residents with catheters, staff are meant to check how much urine had been collected in the catheter bag and this is recorded in their fluid balance chart, which recorded input and output. If there is no output, staff either reposition the resident or encourage them to drink more fluid. If there continues to be no output, the matter needs to be escalated to the Senior Nurse on duty.*

12. *During the night shift beginning on 02 December 2020, Miss Smith was again on duty for the ground floor. Patient B did not pass urine during this shift because he went into retention i.e., his catheter became blocked. Despite being aware of Patient B's lack of urinary output because she was carrying out the individual checks, Miss Smith did not flush Patient B's catheter to attempt to remove the blockage, neither did she escalate Patient B's failure to pass urine to the Senior Nurse. The matter was ultimately escalated by the day nurse who came on shift after Miss Smith.*

13. *On 06 December 2020, Miss Smith resigned with immediate effect thus the action plan was not completed.*

14. *At a case conference with the NMC on 18 September 2023, Miss Smith's representative confirmed that Miss Smith admitted the charges and impairment.*

Misconduct

15. *Lord Clyde in Roylance v General Medical Council [1999] UKPC 16 provides guidance when considering what could amount to misconduct:*

    '[331B-E] Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a [nurse] practitioner in the particular circumstances'.

16. *Further assistance may be found in the comments of Jackson J in R (Calhaem) v General Medical Council [2007] EWHC 2606 (Admin) and Collins J in Nandi v General Medical Council [2004] EWHC 2317 (Admin):*

    '[Misconduct] connotes a serious breach which indicates that the [nurse's] fitness to practise is impaired'
    and
    'The adjective 'serious' must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioners'.

17. *At the relevant time, Miss Smith was subject to the provisions of The Code: Professional standards of practice and behaviour for nurses and midwives (2015) ("the Code"). It is agreed that the following provisions of the Code have been breached in this case:*

    1 Treat people as individuals and uphold their dignity
    To achieve this, you must:

1.1 treat people with kindness, respect and compassion
1.2 make sure you deliver the fundamentals of care effectively
1.4 make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay

3 Make sure that people's physical, social and psychological needs are assessed and responded to
To achieve this, you must:
3.1 pay special attention to promoting wellbeing, preventing ill health and meeting the changing health and care needs of people during all life stages

8 Work cooperatively
To achieve this, you must:
8.1 respect the skills, expertise and contributions of your colleagues, referring matters to them when appropriate
8.2 maintain effective communication with colleagues
8.3 keep colleagues informed when you are sharing the care of individuals with other health and care professionals and staff
8.5 work with colleagues to preserve the safety of those receiving care
8.6 share information to identify and reduce risk

13 Recognise and work within the limits of your competence
To achieve this, you must, as appropriate:
13.1 accurately identify, observe and assess signs of normal or worsening physical and mental health in the person receiving care
13.2 make a timely referral to another practitioner when any action, care or treatment is required

16 Act without delay if you believe that there is a risk to patient safety or public protection
To achieve this, you must:

16.4 acknowledge and act on all concerns raised to you, investigating, escalating or dealing with those concerns where it is appropriate for you to do so

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

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

25 Provide leadership to make sure people's wellbeing is protected and to improve their experiences of the health and care system

To achieve this, you must:

25.1 identify priorities, manage time, staff and resources effectively and deal with risk to make sure that the quality of care or service you deliver is maintained and improved, putting the needs of those receiving care or services first

18. *The Parties agree that the facts individually and cumulatively amount to misconduct. Miss Smith failed to promptly deliver fundamental care to two vulnerable residents on two separate occasions. Each resident was at risk of harm due to their individual conditions e.g., Patient A was at heightened risk of her skin integrity being compromised and being injured during an inappropriate transfer, and Patient B was at heightened risk of pain and discomfort from being left with a blocked catheter.*

19. *Working cooperatively with colleagues is essential for providing appropriate care. Miss Smith failed to assist the HCAs to transfer Patient A despite receiving numerous requests to do so, and she failed to seek advice/assistance from a Senior Colleague when she knew Patient B had*

failed to pass urine during her shift. Furthermore, she failed to handover the risk of harm to Patients A and B to the staff relieving her.

20. *Miss Smith's failings fall short of what would be expected of a registered nurse in the circumstances. The areas of concern identified relate to basic nursing knowledge and fundamental tenets of the profession. These failings are likely to cause risk to patients in the future if they are not addressed.*

Impairment

21. *Miss Smith's fitness to practise is currently impaired by reason of her misconduct.*

22. *The NMC's guidance at DMA-1 explains that impairment is not defined in legislation but is a matter for the Fitness to Practise Committee to decide. 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?"

23. *If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired. Answering this question involves a consideration of both the nature of the concern and the public interest.*

24. *The parties agree that consideration of the nature of the concern involves looking at the factors set out by Dame Janet Smith in her Fifth Report from Shipman, approved in the case of Council for Healthcare Regulatory Excellence v (1)Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) by Cox J;*
    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 professions 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 professions; and/or*
d) *Has in the past acted dishonestly and/or is liable to act dishonestly in the future?*

25. *The Parties have also considered the comments of Cox J in Grant at paragraph 101:*

"The Committee should therefore have asked themselves not only whether the Registrant continued to present a risk to members of the public, but whether the need to uphold proper professional standards and public confidence in the Registrant and in the profession would be undermined if a finding of impairment of fitness to practise were not made in the circumstances of this case."

26. *In this case, limbs (a), (b), and (c), are engaged. The Parties agree that there was no actual harm suffered by the residents. Nonetheless, Patients A and B were vulnerable by virtue of their ages and their conditions. Despite receiving multiple requests to assist the HCAs with transferring Patient A to her bed, Miss Smith did not help. Consequently, Patient A was left in her chair for approximately 24 hours, which placed her at risk of having her skin integrity compromised. With reference to Patient B, Miss Smith neglected to take remedial action and/or escalate the situation in response to his lack of urinary output despite her knowledge of the tendency for Patient B's catheter to become blocked. On each occasion, Miss Smith did not handover these facts to the incoming staff. Her failures relate to basic nursing knowledge. Additionally, the incident with Patient B occurred when Miss Smith was subject to an action plan following the incident with Patient A.*

27. *NMC guidance adopts the approach of Silber J in the case of R (on application of Cohen) v General Medical Council [2008] EWHC 581 (Admin) by asking the questions whether the concern is easily remediable, whether it has in fact been remedied and whether it is highly unlikely to be repeated.*

28. *The Parties agree that the misconduct in this case is remediable. However, Miss Smith has not worked in nursing since her resignation from the Home. Consequently, the Parties concluded that the misconduct has not been remediated.*

Remorse, reflection, insight, training and strengthening practice

29. *The Parties next considered if Miss Smith has reflected and taken opportunities to show insight into what happened. Miss Smith has not submitted a formal response to the charges. She has also not worked in a nursing capacity since her resignation from the Home. In a call with an NMC Officer on 31 August 2021, Miss Smith said she did not want to return to nursing and wanted to be taken off the register. She advised that she would not 'come to a meeting' nor do any training, and she considered herself as retired from nursing. On 14 February 2022 Miss Smith again spoke to an NMC Officer and said she would not be attending any NMC proceedings because she was 'not interested.'*

30. *In an email to the NMC dated 22 February 2022, Miss Smith wrote:*

"Like I said on the phone am not interested. Nursing is my past. Please do not contact me again I'm trying to move on with my life and don't this [sic]."

31. *In a further email to the NMC dated 23 February 2022, Miss Smith wrote:*

"I won't be changing my mind I work in hospitality now. I want this to stop as I can't move on and don't need reminded of a 20 year career down the pan!!! Randolph hill ruined my career. I have no paper work I shredded the lot.

I also have disclosure Scotland hounding me cos yous [sic] won't stop and face going a register meaning I can't have a family.
Never in my life over 20 years have I been a danger to anyone.

Please stop contacting me and tell discourse the same as they won't stop until you do."

32. *The Parties therefore concluded that Miss Smith has demonstrated no insight nor remorse, neither has she undertaken any training to address the concerns. It is therefore agreed that the likelihood of the conduct being repeated remains high.*

Public protection impairment

33. *A finding of impairment is necessary on public protection grounds.*

34. *In the absence of evidence of any insight and remediation, and based on the nature of the concerns, Miss Smith is liable in the future to put patients at unwarranted risk of harm were she to practise without any restrictions.*

Public interest impairment

35. *A finding of impairment is necessary on public interest grounds.*

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

"In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be

undermined if a finding of impairment were not made in the particular circumstances."

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

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

39. *The public expect nurses, individually and in collaboration with colleagues, to treat them with care, promptly attend to their medical needs, and maintain their dignity at all times. The public's confidence in the profession would be undermined if a finding of impairment was not made with reference to a nurse who on two separate occasions had failed to work collaboratively with colleagues to address concerns relating to two vulnerable residents and had placed them at unwarranted risk of harm through that nurse's deliberate inaction.*

40. *A finding that Miss Smith's fitness to practise is also impaired on public interest grounds is therefore necessary.*

41. *For the reasons above, Miss Smith's fitness to practise is currently impaired by reason of her misconduct, on both public protection and public interest grounds.*

Sanction

42. The appropriate sanction in this case is a 12-month suspension order.

43. The following aggravated features are present in this case:

- *The incident relating to Patient B occurred whilst Miss Smith was subject to an action plan implemented in response to the incident relating to Patient A.*
- *Miss Smith has not demonstrated any insight or remorse, nor has she undertaken any training to remediate the concerns.*

44. The following mitigating features are present in this case:

- *Miss Smith has [PRIVATE].*

45. In taking the available sanctions in ascending order, the Parties first considered whether to take no action or make a caution order. It is agreed that neither of these sanctions would be appropriate in view of the need to protect the public, and the need to declare and uphold proper standards of conduct.

46. Imposing a Conditions of Practice Order would not be appropriate. Whilst this case has identifiable areas in which Miss Smith could undertake training to address the risk of harm and repetition, her unwillingness to undertake and engage positively with said training suggests that this sanction would be ineffective.

47. The Parties agree that a Striking-Off order would not be appropriate. The underlying facts are not so serious such that public confident in the profession would be undermined if Miss Smith were not removed from the

register, and this sanction is not the only sanction sufficient to maintain professional standards and protect patients and members of the public.

48. *A suspension order is the appropriate order in this case. There is no evidence of harmful deep-seated personality or attitudinal problems, nor of repetition of behaviour since the incidents.*

49. *A 12-month suspension order would adequately protect the public and public interest, whilst reflecting the seriousness of the misconduct and affording Miss Smith further opportunity to reflect and remediate.*

Referrer's comments

50. *On 05 October 2023 the NMC emailed the Manager of the Home, Colleague C, for comments on the CPD agreement. To date a response is yet to be received.*

Interim order

51. *An interim order is required in this case. The interim order is necessary for the protection of the public/otherwise in the public interest for the reasons given above. The interim order should be for a period of 18 months in the event that Miss Smith seeks to appeal the panel's decision. The interim order should take the form of an interim suspension order.*

The Parties understand that this provisional agreement cannot bind a panel, and that the final decision on findings impairment and sanction is a matter for the panel. The Parties understand that, in the event that a panel does not agree with this provisional agreement, the admissions to the charges and the agreed statement of facts set out above, may be placed before a differently constituted panel that is determining the allegation, provided that it would be relevant and fair to do so.'

Further, there was an addendum which was added to the CPD, which stated:

1. *‘ For the avoidance of doubt the NMC does not consider this to be a case where Article 29(8A) should apply and accordingly the substantive suspension order should be reviewed before its expiry.’*

Here ends the provisional CPD agreement between the NMC and Miss Smith. The provisional CPD agreement was signed by Miss Smith on 26 October 2023 and the NMC on 30 October 2023. The addendum was signed by Miss Smith on 1 December 2023 and the NMC on 31 October 2023.

Decision and reasons on the CPD

The panel decided to amend the CPD. The panel accepted the CPD with regard to misconduct and impairment, as well as the proposed sanction, but it determined to impose the suspension order for a period of six months.

The panel heard and accepted the legal assessor’s advice. He referred the panel to the ‘NMC Sanctions Guidance’ (SG) and to the ‘NMC’s guidance on Consensual Panel Determinations’. The legal assessor reminded the panel that they could accept, amend or outright reject the provisional CPD agreement reached between the NMC and Miss Smith. Further, the panel should consider whether the provisional CPD agreement would be in the public interest. This means that the outcome must ensure an appropriate level of public protection, maintain public confidence in the professions and the regulatory body, and declare and uphold proper standards of conduct and behaviour.

The panel noted that Miss Smith admitted the facts of the charges. Accordingly, the panel was satisfied that the charges are found proved by way of Miss Smith’s admissions as set out in the signed provisional CPD agreement.

Decision and reasons on impairment

The panel then went on to consider whether Miss Smith's fitness to practise is currently impaired. Whilst acknowledging the agreement between the NMC and Miss Smith, the panel has exercised its own independent judgement in reaching its decision on impairment.

In respect of misconduct the panel determined that your actions fall below the standards expected of you and determined that your actions amounted to misconduct. The panel considered the sections of the Code outlined in the CPD, and concluded that the failings, both individually and collectively, amounted to misconduct.

In this respect, the panel endorsed paragraphs 15 to 20 of the provisional CPD agreement in respect of misconduct.

The panel then considered whether Miss Smith's fitness to practise is currently impaired by reason of her misconduct. 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.'*

The panel determined that Miss Smith's fitness to practise is currently impaired. The panel considered the judgment in *Grant* as outlined in the CPD and endorsed the engagement of the first three limbs in this case. With regard to insight, the panel considered the correspondence between Miss Smith and the NMC, outlined in paragraphs 30 and 31 of the CPD, and determined that Miss Smith has not shown insight into her failings. Furthermore, the panel has not seen evidence of remediation or strengthening of practice, and the panel noted that Miss Smith no longer works as a registered nurse. Accordingly,

the panel determined that Miss Smith's fitness to practise is currently impaired on the ground of public protection.

In light of this, the panel determined that the public confidence in the nursing profession and the NMC as its regulator would be undermined if a finding of impairment was not made. Accordingly, the panel determined that Miss Smith's fitness to practise is also currently impaired on public interest grounds.

In this respect the panel endorsed paragraphs 21 to 41 of the provisional CPD agreement.

Decision and reasons on sanction

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

The panel took into account the following aggravating features as set out in the CPD:

- The incident relating to Patient B occurred whilst Miss Smith was subject to an action plan implemented in response to the incident relating to Patient A.
- Miss Smith has not demonstrated any insight or remorse, nor has she undertaken any training to remediate the concerns.

The panel also took into account the following mitigating features as set out in the CPD:

- Miss Smith has [PRIVATE].

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

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

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

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining; and*
- *No evidence of general incompetence.*

The panel is of the view that there are no practical or workable conditions that could be formulated, given Miss Smith's expressed desire to leave nursing. The panel considered Miss Smith's change in career path to hospitality, and the correspondence from her to the NMC outlining she does not wish to return to nursing. It determined that, in light of Miss Smith's expressed intention to not return, no workable conditions could be formulated in this case.

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:

- *No evidence of harmful deep-seated personality or attitudinal problems; and*
- *No evidence of repetition of behaviour since the incident.*

The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register.

It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Miss Smith's case to impose a striking-off order.

Balancing all of these factors, the panel agreed with the CPD that a suspension order would be the appropriate and proportionate sanction. The panel considered that Miss Smith demonstrated no evidence of harmful deep-seated personality or attitudinal problems and there is no evidence of repetition of behaviour since the incident.

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

The panel determined that a suspension order for a period of six months was sufficient and appropriate in this case to mark the seriousness of the misconduct, and 12 months would be disproportionate in light of the misconduct identified. With regard to paragraph 49 of the CPD, the panel concluded that six months would still provide Miss Smith the opportunity to reflect and remediate.

At the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Miss Smith's attendance before the next reviewing panel;
- A statement outlining Miss Smith's intention with regard to her future in nursing;
- If Miss Smith does decide to return to nursing, a reflective statement demonstrating insight into Miss Smith misconduct; and
- If Miss Smith does decide to return to nursing, evidence of professional development, retraining or strengthening practice which has been completed.

This will be confirmed to Miss Smith in writing.

Decision and reasons on interim order

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 Miss Smith's own interest. The panel heard and accepted the advice of the legal assessor.

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interests. 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 determined that not to impose an interim suspension order would be incompatible with its earlier findings.

The panel agreed with the CPD that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months to account for the possible appeal period.

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

That concludes this determination.