Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Monday, 14 – Thursday, 17 April 2025

Nursing and Midwifery Council
10 George Street, Edinburgh, EH2 2PF

Name of Registrant:	**Kelsy Coelho-Jones**
NMC PIN:	20C0031E
Part(s) of the register:	Registered Nurse – Adult (10 March 2020)
Relevant Location:	Leeds
Type of case:	Misconduct
Panel members:	Paul Grant (Chair, lay member) Zoe Wernikowski (Registrant member) Karen Elizabeth Gardiner (Registrant member)
Legal Assessor:	Breige Gilmore
Hearings Coordinator:	Sharmilla Nanan
Nursing and Midwifery Council:	Represented by Stephen Page, Case Presenter
Miss Coelho-Jones:	Not present and not represented at the hearing
Facts proved:	Charges 1a, 1b, 1c, 1d, 1e, 1f and 1g
Fitness to practise:	Impaired
Sanction:	**Suspension order (9 months)**
Interim order:	**Interim suspension order (18 months)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Miss Coelho-Jones was not in attendance and that the Notice of Hearing letter had been sent to Miss Coelho-Jones's registered email address by secure email on 11 March 2025.

Mr Page, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, dates and venue of the hearing and, amongst other things, information about Miss Coelho-Jones's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In light of all of the information available, the panel was satisfied that Miss Coelho-Jones has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Miss Coelho-Jones

The panel next considered whether it should proceed in the absence of Miss Coelho-Jones. It had regard to Rule 21 and heard the submissions of Mr Page who invited the panel to continue in the absence of Miss Coelho-Jones. He submitted that Miss Coelho-Jones had voluntarily absented herself.

Mr Page noted that Miss Coelho-Jones is not present at the hearing today. He submitted that the panel have the discretion to proceed in Miss Coelho-Jones's absence. He referred the panel to relevant case law. He submitted that Miss Coelho-Jones has been properly

served with notice of the hearing and she has not made an application to adjourn the hearing. He submitted that the NMC have made attempts to contact Miss Coelho-Jones in relation to the substantive hearing and there has been limited engagement from her. He submitted that she has indicated from a completed case management form that she will not be attending the hearing and is content for the hearing to take place in her absence. He submitted that it is in the public interest and in Miss Coelho-Jones's interest to expeditiously dispose of the case. He submitted that it would be proportionate to proceed in Miss Coelho-Jones's absence.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised *'with the utmost care and caution'* as referred to in the case of *R* v *Jones (Anthony William)* (No.2) [2002] UKHL 5.

The panel decided to proceed in the absence of Miss Coelho-Jones. In reaching this decision, the panel considered the submissions of Mr Page, and the advice of the legal assessor. The panel had particular regard to the factors set out in the decision of *R v Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. In reaching its decision the panel took account of the following points:

- No application for an adjournment has been made by Miss Coelho-Jones;
- Miss Coelho-Jones has indicated on the case management form that she will not be attending the NMC substantive hearing;
- The panel was of the view that Miss Coelho-Jones has voluntarily absented herself from the hearing and hence waived her right to attend;
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- Two witnesses are due to attend today to give live evidence;

- Not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- The charges relate to events that occurred in 2022;
- Further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

The panel considered that there is some disadvantage to Miss Coelho-Jones in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her at her registered email address, she will not be able to challenge the evidence relied upon by the NMC and will not be able to give evidence on her own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Miss Coelho-Jones's decisions to absent herself from the hearing, waive her rights to attend, and/or be represented, and to not provide evidence or make submissions on her own behalf.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Miss Coelho-Jones. The panel will draw no adverse inference from Miss Coelho-Jones' absence in its findings of fact.

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

At the outset of the hearing, Mr Page made an application requesting that should reference be made to [PRIVATE] those parts of the hearing should be held in private. In making this application, Mr Page made reference to the documents provided to the panel, some of which contained references to [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

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

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

Details of charge

That you, a registered nurse

1) On 21 March 2022:

   a) Accessed patient 1's medical records without clinical justification;
   b) Accessed patient 2 's medical records without clinical justification;
   c) Accessed patient 3 's medical records without clinical justification;
   d) Accessed patient 4 's medical records without clinical justification;
   e) Accessed patient 5 's medical records without clinical justification;
   f) Accessed patient 6 's medical records without clinical justification;
   g) Accessed patient 7 's medical records without clinical justification;

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

Background

Miss Coelho-Jones was employed by Spectrum Healthcare (Spectrum) as a Band 5 Sexual Health Nurse at the Wakefield Integrated Sexual Health clinic (WISH Clinic) from 28 June to 10 September 2021.

On 21 March 2022, Miss Coelho-Jones began her employment with Leeds Community HealthCare NHS Trust (the Trust) as a Band 5 Clinical Nurse on the Tuberculosis Liaison Nursing team in Leeds. Miss Coelho-Jones collected her Trust laptop and logged in. Miss Coelho-Jones was not required to access any patient records as she was working alongside two other registered nurses.

On 21 March 2022, a Spectrum administrator was logged onto the NHS patient record system 'SystmOne'. When the Spectrum administrator went to message a colleague, they allegedly noticed that Miss Coelho-Jones was logged on the system. The administrator recognised that this was unusual knowing that Miss Coelho-Jones had left the organisation and escalated appropriately. During the investigation launched as a result of the incident report, an audit of access to SystmOne, on the day in question, was undertaken.

The audit of Miss Coelho-Jones' access identified that Miss Coelho-Jones had allegedly viewed seven patients records. As these patients were scheduled on Spectrum's clinic lists, Miss Coelho-Jones allegedly had no clinical reason or justification for viewing this information.

In October 2022, Spectrum formally notified the Trust of the alleged breach of patient confidentially. Miss Coelho-Jones was removed from clinical practice with access stopped to electronic patient records.

During the Trust's local investigation, Miss Coelho-Jones denied accessing patient records at the WISH clinic. Miss Coelho-Jones stated during the investigation that she had no reason to access patient records and she further stated that Spectrum were at fault as they did not remove the access on her smartcard when she left their employment.

Decision and reasons on facts

In reaching its decisions on the facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Page on behalf of the NMC.

The panel has drawn no adverse inference from the non-attendance of Miss Coelho-Jones.

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 witnesses called on behalf of the NMC:

- Witness 1: Employed by Leeds Community HealthCare NHS Trust as the Information Governance Manager and Deputy Data Protection Officer. She worked as the investigator for Miss Coelho-Jones' disciplinary investigation.

- Witness 2: Employed by Spectrum Community Health CIC as the Executive Director of Nursing and Quality. She has not met Miss Coelho-Jones and only became aware of her through the course of these proceedings.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the witness and documentary evidence provided by the NMC.

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

Charges 1a – 1g

"That you, a registered nurse

1) On 21 March 2022:

a) Accessed patient 1's medical records without clinical justification
b) Accessed patient 2 's medical records without clinical justification;
c) Accessed patient 3 's medical records without clinical justification;
d) Accessed patient 4 's medical records without clinical justification;
e) Accessed patient 5 's medical records without clinical justification;
f) Accessed patient 6 's medical records without clinical justification;
g) Accessed patient 7 's medical records without clinical justification;"

These charges are found proved.

In reaching this decision, the panel took into account the evidence of Witness 1 and Witness 2. The panel considered charges a) – g) together as the evidence concerned was consistent for all of the sub-charges.

The panel considered Witness 2's NMC statement. She stated *"On 21 March 2022, a Spectrum administrator was logged onto SystmOne conducting some housekeeping tasks. SystmOne has a messaging facility which allows you to message other authorised users. When using this facility you can also see which other users are logged onto the module. When the Spectrum administrator went to message a colleague, they noticed that*

Kelsey's name was on the list of active users. They knew Kelsey was no longer employed by Spectrum and reported the incident to management. A incident report form was completed".

The panel considered the document titled, 'Spectrum Incident Report 322' dated 21 March 2022. The 'Incident Detail' of the report states, *"upon using S1 'Messaging' option shows user logged on to system who is no longer employed within the organisation."*

The panel considered Witness 1's NMC statement. She stated *"With support of our IT department I confirmed that Kelsey's laptop with unique user number [REDACTED] logged on to PCID [REDACTED] at 14:43 on 21 March 2022. The user then accessed patient record details and logged off at approximately 15:01. Our IT department confirmed the IP address which was associated to this log in, related to the health centre where Kelsey was working that day. The access appears to have been via smartcard therefore the card would have to be in a smartcard reader, connected to Trusts VPN and the users pin would have been required to open the Systmone unit. I produce a copy of the log in details."*

The panel had regard to Witness 1's documentary evidence of the 'log in details /laptop attribution report'. It noted that this report states that PC Name, PC Location and IP address. The panel noted that 'log in details /laptop attribution report' recorded that patient records were retrieved and discarded between 14:43 and 15:01. Witness 1 explained that 'retrieve' meant to access the record and 'discard' meant to close it.

Witness 1 also said in her NMC statement *"Throughout the investigation Kelsey maintained she had not accessed patient records on SystmOne and alleged that Spectrum were at fault as they had no removed the access from her smartcard and someone else could have used her account. I do not believe someone else could have used Kelsey's log in, as they would have needed Kesley's laptop, her account login username and password, her NHS smart card, and user pin code."*

The panel considered Miss Coelho-Jones' account. It considered the 'Written Record of Fact Finding Meeting' dated 15 November 2022. Miss Coelho-Jones' states that in relation to the 21 March 2022, *"I know exactly what I was doing that day. It was my first day at LCH. I was in Chapeltown Health Centre with two band 6 staff. I was in clinic. I would not have had access to a PC. I might have had access to an LCH laptop."* In relation to her smartcard she said *"I brought it with me to LCH."*

In the 'Written Record of Fact Finding Meeting' dated 11 January 2023 with Witness 1, it states:

> *"[Witness 1]: Can you explain to me your first day, who you were working with and were you present in their clinics?*
>
> *[KCJ]: … I went to see the patient with [Ms 3] and then I went to Chapeltown health centre. I went through the paperwork that you normally do when you have started a new job. I met [Ms 4], one of the admin staff, to make sure I had everything and received a laptop…*
>
> *[Witness 1]: From an internal audit, it has been found that your card has accessed the neighbourhood team System One on the 21st March at 14:40. What is your understanding of this?*
>
> *[KCJ]: Not that I am aware of, I did not access the system, unless I had a shift coming up, but I haven't worked for the neighbourhood team in months. I have never been in trouble in work. From my knowledge, I haven't heard anything from either a patient or a manager stating I have done something wrong...*
>
> *[Witness 1]: Can you remember if you logged onto a computer or laptop on 21st March in the afternoon?*
>
> *[KCJ]: No. It would be weird for me to do that especially because I was in clinic all afternoon with two band 6s. I think this whole situation is really bizarre. There would be no benefit to me. Also, I would like to raise, why did I allegedly have access to*

another organisation's system when I no longer work there? This needs addressing with Spectrum and they should be held accountable for this. My access should be removed when I left Spectrum… I think it is a bizarre thing to do on your first day at work. I know what I was doing, I was in clinic."

The panel also considered the Disciplinary Hearing Transcript dated 10 August 2023 with Witness 1, Miss Coelho-Jones and other members of staff. The transcript states:

"[KCJ]: Yeah, I used the bank details to log into the laptop. [Ms 3] advised me to try that to see if it worked and it did…
[Ms 5]: And is it the computer the same as is referenced on the evidence?
[KCJ]: Yes
[Ms 5]: You were given that, you logged on and you put your smartcard in. When you put you put your smartcard did you need your pin?
[KCJ]: I didn't use my pin; it was just for ESR….
[Ms 5]: When I put my smartcard in, I put in my 4-digit code. Then there is a box that comes in with a list of units. When that list came up, was spectrum on there?
[KCJ]: I don't remember, I didn't notice it because I wasn't looking for it. I clicked the white box off because I was purely going on ESR. I went to look at my A/L.
[Ms 5] Can I ask you once again Kelsey? Did you access any clinical records in that room on your first day with LCH?
[KCJ]: No.
[Ms 5] And you did not access any of your previous patients?
[KCJ]: No. I may have looked for any future visits on the bank. They said I had searched a patient at spectrum, but I wouldn't even know any patient name to search. There is absolutely no benefit to me or anyone to do that."

The panel considered the evidence before it. The panel took into consideration the character references provided on Miss Coelho-Jones' behalf and that she is of previous good character. However, it bore in mind that this had limited bearing at the Facts stage.

The panel took into consideration that the staff member at Spectrum who noticed Miss Coelho-Jones' name on the list of active users on 21 March 2022 immediately highlighted their observation to the management at Spectrum.

The panel noted that the 'log in details /laptop attribution report' had been taken from an IT system and showed that the patient records had been 'retrieved' and 'discarded' on seven occasions on 21 March 2022. The panel noted that there was no reason to suggest that the 'log in details /laptop attribution report' was not cogent, credible and reliable evidence.

The panel also took account of the patient audit conducted by Spectrum that indicated that Miss Coelho-Jones had accessed the records of patients 1 – 7, which detailed the relevant times that the records were access as well as the actions undertaken by Miss Coelho-Jones.

The panel took into account that Miss Coelho-Jones has consistently denied that she accessed any patient records from the WISH clinic, and she states that there is no reason for her to access the patient records at the WISH clinic. The panel noted that Miss Coelho-Jones alleges that Spectrum are at fault as her access had not been appropriately removed. The panel was of the view that if Miss Coelho-Jones realised that she had access to patient records that she should not have had, she should have informed Spectrum or the WISH clinic to remove her access.

The panel noted Miss Coelho-Jones has not provided any alternative explanation as to why her smartcard shows that patient records from the WISH clinic had been accessed, on her first day at the Trust and when she was no longer working for Spectrum, at the location she was working on 21 March 2022. The panel concluded that it was not plausible for someone else to have used Miss Coelho-Jones's log in, without her

knowledge, as they would require Miss Coelho-Jones's laptop, account login username and password, NHS smart card, and user pin code. This was confirmed by Witness 1.

The panel bore in mind that on 21 March 2022, Miss Coelho-Jones no longer worked for Spectrum. The panel determined that the only patient records that Miss Coelho-Jones had any clinical justification to access, on 21 March 2022, were those which related to patients she observed, with Ms 3, who were engaging with the Tuberculosis Liaison Nursing team.

The panel concluded that on 21 March 2022 Miss Coelho-Jones accessed the medical records of patient 1, patient 2, patient 3, patient 4, patient 5, patient 6 and patient 7 without clinical justification. The panel therefore found charges 1a, 1b, 1c, 1d, 1e, 1f and 1g 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 Miss Coelho-Jones's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

The panel, in reaching its decision, 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, Miss Coelho-Jones's fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

Mr Page referred the panel 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.'* He referred the panel to other relevant case law and applicable NMC guidance.

Mr Page invited the panel to take the view that the facts found proved amount to misconduct. Mr Page referred the panel to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' (the Code) in making its decision and identified the specific, relevant standards where Miss Coelho-Jones's actions amounted to misconduct. He submitted that the identified breaches of the code represent serious misconduct that breach fundamental tenets of the profession. He submitted that Miss Coelho-Jones' conduct in the charges found proved raises fundamental questions about her ability to uphold the standards and values set out in the Code.

Mr Page submitted that the panel may consider Miss Coelho-Jones' conduct not to amount to a single incident of misconduct as she had accessed and viewed seven patients records thus demonstrating a pattern of conduct and repetition in a single short period of time. He submitted that Miss Coelho-Jones' actions took place in a clinical setting and that her conduct may suggest a deep seated attitudinal problem on the basis that she was intentionally 'accessing' and 'viewing' several patients records repetitiously, increasing a risk of harm or potential harm. He submitted that this may affect the delivery of care and if not dealt with could impact trust in the profession and its regulator. He submitted that by 'accessing' and 'viewing' several patients records without clinical justification, Miss Coelho-Jones's conduct fell significantly short of what would be expected of a registered nurse.

Submissions on impairment

Mr Page 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 also included reference to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin) and other relevant case law. He also referred the panel to NMC guidance.

Mr Page submitted that Miss Coelho-Jones's conduct and breach of the NMC code could potentially have placed members of the public at a risk of harm. He submitted that Miss Coelho-Jones's conduct needs to be marked and that her fitness to practice is currently impaired. He submitted that the panel may find that deep seated attitudinal issues are not easily remediable. He referred the panel to the character references and submitted that there is no reflective statement from Miss Coelho-Jones in relation to the concerns before the panel. He submitted that there is no evidence of any strengthened practice. He submitted that the charges found proved amount to serious professional misconduct and public confidence in the profession and its regulator would be undermined if a finding of impairment was not made. He invited the panel to make a finding of impairment on the grounds of public protection and public interest.

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 Miss Coelho-Jones's actions did fall significantly short of the standards expected of a registered nurse, and that Miss Coelho-Jones's actions amounted to a breach of the Code. Specifically:

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

To achieve this, you must:

5.1 respect a person's right to privacy in all aspects of their care

8 Work co-operatively

To achieve this, you must:

8.6 share information to identify and reduce risk

Preserve safety

The professional duty of candour is about openness and honesty when things go wrong.

14 Be open and candid with all service users about all aspects of care and treatment, including when any mistakes or harm have taken place

To achieve this, you must:

14.1 act immediately to put right the situation if someone has suffered actual harm for any reason or an incident has happened which had the potential for harm

14.3 document all these events formally and take further action (escalate) if appropriate so they can be dealt with quickly

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 … integrity at all times, treating people fairly …

20.5 treat people in a way that does not … cause them upset or distress'

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

The panel took into consideration that this was a single isolated incident, over an 18-minute period on 21 March 2022, where Miss Coelho-Jones accessed the records of seven different patients at the WISH clinic. The panel noted that no further evidence has been provided in which Miss Coelho-Jones has inappropriately accessed patient records or breached confidentiality on any other occasions. The panel was not satisfied that Miss Coelho-Jones' conduct is representative of a pattern of repetition and it concluded that her conduct was not representative of behaviour that demonstrates deep seated attitudinal concerns.

However, the panel took into account that Miss Coelho-Jones deliberately and independently accessed the records of seven different patients and that she did not have any clinical justification to do so. The panel noted that the patients whose information had been accessed by Miss Coelho-Jones were service users of a sexual health clinic and that the information held about them could potentially be sensitive. The panel noted that two of the patients had expressed their concerns and experienced emotional distress when they had been informed that their records had been inappropriately accessed. The panel was satisfied on this basis that there was patient harm. The panel concluded that this was a serious breach of patient confidentiality. The panel determined that Miss Coelho-Jones' conduct as found proved in the charges was sufficiently serious to amount to misconduct.

The panel found that Miss Coelho-Jones's actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Miss Coelho-Jones's 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. 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 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 is equally applicable to nurses and 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) *…’*

The panel determined that limbs a, b and c of Dame Janet Smith's “test” were engaged both in terms of her past conduct as well as the potential for Miss Coelho-Jones to repeat that misconduct in the future.

The panel finds that patients were put at risk of harm and were caused emotional harm as a result of Miss Coelho-Jones’s misconduct. It noted that Miss Coelho-Jones’ misconduct took place over a single isolated 18-minute period on 21 March 2022. Miss Coelho-Jones’s misconduct had breached the fundamental tenets of the nursing profession, namely that she breached various parts of the Code, and therefore brought its reputation into disrepute.

Regarding insight, the panel considered that Miss Coelho-Jones had very limited insight. The panel considered all of Miss Coelho-Jones’ responses during the local investigation and in particular the statement that she provided to the Trust during its local investigation. The panel was of the view that Miss Coelho-Jones had focused on the impact that the

investigation had on her and she had not considered the seriousness of the allegations and the impact that such conduct could have on patients, her colleagues and the wider nursing profession.

Whilst noting and accepting Miss Coelho-Jones's right to deny the charges, the panel was of the view that it would still have been possible for her to have demonstrated insight into the seriousness and potential impact of the conduct set out in the charges. It concluded that Miss Coelho-Jones has not demonstrated an understanding of how accessing patient records without any clinical justification could put patients at a risk of harm nor has she demonstrated an understanding of why it is wrong to do so. The panel had no information from Miss Coelho-Jones on how accessing patient records without clinical justification would impact negatively on the reputation of the nursing profession and how it would impact the confidence of members of the public who engage with the WISH clinic. It noted that Miss Coelho-Jones has not sufficiently demonstrated how she would handle a similar situation differently in the future.

The panel was satisfied that the misconduct in this case is capable of being addressed. The panel considered the evidence before it in determining whether or not Miss Coelho-Jones has taken steps to strengthen her practice. The panel took into account she has not completed a reflective statement in relation to addressing the concerns set out in the charges nor has she provided evidence of any relevant training undertaken.

The panel took into account the character references provided on Miss Coelho-Jones' behalf. The panel was of the view that the character references are of limited value in terms of demonstrating her insight.

The panel concluded that there is a risk of repetition based on Miss Coelho-Jones' lack of insight and lack of evidence of strengthened practice. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel determined that a finding of impairment on public interest grounds is required. The panel bore in mind that information that patients share with sexual health clinics can be sensitive and that by accessing them without any clinical justification, public confidence in healthcare, the nursing profession and Spectrum (as a healthcare provider and employer) could be damaged. The panel was of the view that Miss Coelho-Jones' conduct, as found proved in the charges, may discourage patients from engaging with sexual health clinics and patients could potentially delay their treatment. It took into consideration that as a nurse Miss Coelho-Jones holds a position of trust and that by accessing patient records without any clinical justification she has abused her position. The panel concluded that a member of the public would be shocked and dismayed if a finding of impairment was not made given the seriousness of Miss Coelho-Jones' misconduct.

In addition, the panel concluded that public confidence and the maintenance of standards in the profession and the NMC would be undermined if a finding of impairment were not made in this case. The panel therefore also finds Miss Coelho-Jones's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Miss Coelho-Jones's fitness to practise is currently impaired.

Sanction

The panel has considered this case very carefully and has decided to make a suspension order for a period of nine months. The effect of this order is that the NMC register will show that Miss Coelho-Jones's registration has been suspended.

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 Page invited the panel to impose a striking-off order as it found Miss Coelho-Jones's fitness to practise currently impaired. He referred the panel to the relevant case law and NMC guidance. He submitted that Miss Coelho-Jones's misconduct is not compatible with remaining on the NMC register. He provided the panel with submissions on the mitigating and aggravating factors of the case. He provided submissions on the sanctions available to the panel and the appropriateness of each sanction. He submitted that the panel should impose a sanction which is appropriate and proportionate. He submitted that a striking off order is the only order that would be sufficient to protect patients, maintain public trust and confidence in the profession and uphold the standards expected of registrants.

Decision and reasons on sanction

Having found Miss Coelho-Jones'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:

- Miss Coelho-Jones's conduct put patients at risk of suffering harm and two patients were caused actual harm.
- Miss Coelho-Jones's conduct was deliberate.
- Miss Coelho-Jones has demonstrated very limited insight.
- There is a risk that Miss Coelho-Jones may repeat her misconduct.

The panel took into account the character references provided on Miss Coelho-Jones's behalf. The panel took into consideration that the character references are unrelated to her work as a registered nurse, and it determined that they do not provide sufficient weight to be considered as mitigation in relation to the misconduct found.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case and risk of repetition identified in Miss Coelho-Jones's practice. The panel decided that it would be neither proportionate nor in the public interest to take no further action. It also determined that it would not protect the public nor mark the seriousness of the misconduct.

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 Coelho-Jones'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 Coelho-Jones'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. It also determined that a caution order would not mark the seriousness identified.

The panel next considered whether placing conditions of practice on Miss Coelho-Jones'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 factors where a conditions of practice order would be appropriate as outlined in the SG. The panel noted its earlier finding that Miss Coelho-Jones has not demonstrated any evidence of harmful deep-seated personality or attitudinal problems. The panel is of the view that the misconduct identified in this case was not something that can be addressed through retraining. The panel was not satisfied that appropriate conditions can be created that can be monitored and assessed. It determined that any conditions which would be imposed on Miss Coelho-Jones would be tantamount to a suspension order. The panel determined that there are no practical or workable conditions that could be formulated, given the nature of the charges found proved in this case.

Furthermore, the panel concluded that the placing of conditions on Miss Coelho-Jones's registration would not adequately address the seriousness of this case and would not protect the public.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that a 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 bore in mind that this was an isolated incident which took place over an 18-minute period on a single date, 21 March 2022. The panel took into account its earlier finding that Miss Coelho-Jones has not demonstrated any evidence of harmful deep-seated personality or attitudinal problems. It noted that it had no

evidence that Miss Coelho-Jones has repeated her misconduct since this incident despite having an opportunity to do so whilst she continued working at the Trust for several months. The panel bore in mind its earlier findings that Miss Coelho-Jones has demonstrated very limited insight and that she poses a risk of repeating her misconduct but considered that it was not a significant risk.

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

The panel noted that the burden will be with Miss Coelho-Jones to demonstrate to a future reviewing panel that she would like to remain on the NMC register and that she no longer poses a risk of repeating the conduct found proved.

It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, the panel concluded that it would be disproportionate. It noted that Miss Coelho-Jones's misconduct was an isolated incident that took place over an 18-minute period on 21 March 2022. It was of the view that Miss Coelho-Jones's misconduct did raise fundamental questions about her professionalism. However, it determined that public confidence in the professions can be maintained if she remains on the NMC register and her misconduct is addressed by way of a lesser sanction. The panel also determined that a striking off order was not the only sanction which would sufficiently protect patients, members of the public and maintain professional standards. The panel acknowledges that a suspension order may have a punitive effect but that it would be unduly punitive in Miss Coelho-Jones's case to impose a striking-off order.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction.

The panel noted the hardship such an order will inevitably cause Miss Coelho-Jones. However, this is outweighed by the public interest in this case.

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 nine months is appropriate in this case, in the absence of any mitigating factors, Miss Coelho-Jones's lack of insight and the harm caused to the patients involved. The panel was satisfied that a period of nine months would sufficiently mark the seriousness of the misconduct, address the public protection concerns and satisfy the public interest.

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 Coelho-Jones' attendance and engagement at any future NMC review hearing.
- A reflective statement which addresses the findings of this panel including the impact of the proven conduct on patients, members of the public, colleagues and the wider nursing profession.
- Evidence of continuing professional development undertaken.
- Any relevant paid or unpaid workplace testimonials or references that detail Miss Coelho-Jones' current work practices.

This will be confirmed to Miss Coelho-Jones in writing.

Interim order

As the substantive suspension 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 Miss Coelho-Jones's own interests until the suspension 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 Page. He submitted that an interim suspension order was necessary for a period of 18 months to cover any potential period of appeal. He submitted that an interim order was necessary on the grounds of public protection and public interest.

Decision and reasons on interim order

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

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

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

That concludes this determination.