Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Meeting

Tuesday, 19 August 2025 – Thursday, 21 August 2025

Virtual Meeting

Name of Registrant:	**Michelle Louise Tanner**
NMC PIN:	18B0222E
Part(s) of the register:	Midwives Part of the Register RM: Midwife (13 June 2018)
Relevant Location:	Surrey
Type of case:	Misconduct
Panel members:	Susan Thomas (Chair, Lay member) Christine Wint (Registrant member) Tracy Jones (Lay member)
Legal Assessor:	Jayne Salt
Hearings Coordinator:	Petra Bernard
Facts proved:	All
Facts not proved:	None
Fitness to practise:	Impaired
Sanction:	**Suspension order (12 months with review)**
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 the Notice of Meeting had been sent to Mrs Tanner's registered email address by secure email on 11 July 2025.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegations and date this meeting was to be held. The panel noted that Mrs Tanner had been afforded ample opportunity to submit any documentation she wished the panel to consider in advance of the meeting.

In the light of all of the information available, the panel was satisfied that Mrs Tanner 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).

Decision and reasons on proposed amendment to the charge

At the outset of this substantive meeting the panel of its own volition under Rule 28 of the Rules, decided to amend the stem of the charge 1 in order to correctly reflect that Mrs Tanner is a registered midwife and not a registered nurse.

The amendment to the charge is set out as follows:

<u>Original charge</u>

That you, a registered nurse

1) On 15 October 2023,
a) In relation to Colleague 1, accessed private and confidential medical records with no clinical justification to do so.
b) Searched medical records for names of midwives you worked with when you

had no clinical justification to do this.

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

Proposed amended charge:

That you, a registered ~~nurse~~ **midwife**

1) On 15 October 2023,
a) In relation to Colleague 1, accessed private and confidential medical records with no clinical justification to do so.
b) Searched medical records for names of midwives you worked with when you had no clinical justification to do this.

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

The panel decided to amend the charge in order to accurately reflect the evidence before it.

Background

Mrs Tanner qualified as a midwife and joined the Nursing and Midwifery Council (the NMC) register on 13 June 2018. Mrs Tanner commenced employment with Epsom and St Helier University Hospitals NHS Trust (the Trust) on 28 June 2018 until her resignation on 22 October 2023. The allegations which led to the charge arose whilst Mrs Tanner was employed as a Band 6 registered midwife by the Trust.

On 20 October 2023, the NMC received a referral from a registered nurse and midwife at the Trust**.** It is alleged that on 14 October 2023, Mrs Tanner began a night shift and during this shift, it is alleged that she logged into the maternity information system namely '*Badgernet'* at approximately 03:47 and 03:54. It is alleged that Mrs Tanner

searched for the names of several colleagues within the maternity information system. At 03:51, it is alleged that she accessed the record of Colleague 1, who was [PRIVATE] but had not yet disclosed this to anyone other than to those who were to provide care at the time. Mrs Tanner is alleged to have accessed Colleague 1's confidential maternity record, including notes of her sensitive social history, which Mrs Tanner did not have the clinical jurisdiction to view.

The referrer requested an audit of Mrs Tanner's IT accounts, which allegedly confirmed that it was her IT account who had accessed those records at that time. The audit allegedly showed that Mrs Tanner's login details logged into the computer and then logged into the maternity records system, before searching for the names of several colleagues.

Colleague 1 had not yet disclosed her [PRIVATE] amongst the team and Mrs Tanner had no reason to access this information. In the days following the incident, news of Colleague 1's [PRIVATE] and information relating to their social history became public knowledge.

Mrs Tanner denies the charge.

Mrs Tanner left her employment at the Trust in October 2023 to relocate to Australia. Her current employment status is unknown.

Decision and reasons on facts

The panel first considered the NMC guidance CMT- 4 entitled 'Considering cases at meetings and hearings'. The panel had regard to Mrs Tanner's email to the NMC dated 11 December 2023 and the Proof of Posting dated 11 July 2025. It noted that Mrs Tanner states that she has no plans to continue her career in the UK as a midwife, appears to have relocated to Australia and has had minimal engagement with the NMC from December 2023 up to this point. Further Mrs Tanner has raised no objection to her case proceeding as a meeting.

The panel determined that it is therefore right and proper in the circumstances to proceed with this case as a meeting.

In reaching its decisions on the disputed facts, the panel took into account all the documentary evidence in this case together with the written representations made by the NMC.

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 had regard to the written statements of the following witness on behalf of the NMC:

- Witness 1: Referrer; Registered nurse and midwife employed by the Trust as a [PRIVATE], at the material time

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

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

Charge 1

That you, a registered midwife

1) On 15 October 2023,
a) In relation to Colleague 1, accessed private and confidential medical records with no clinical justification to do so.

b) Searched medical records for names of midwives you worked with when you had no clinical justification to do this.

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

This charge is found proved in its entirety.

In reaching its decisions on the facts, the panel took into account all the documentary evidence in this case, including Witness 1's Witness Statement dated 22 October 2024 and supplementary Witness Statement dated 21 May 2025.

The panel accepted the advice of the legal assessor.

The panel considered the Trust's maternity records system known as *'Badgernet'* and the information it produced, including the IT System Report and the Audit Trail of observations dated 14-15 October 2023, referred to in Witness 1's Witness Statement.

In Witness 1's internal Trust email dated 20 October 2023, she states that the activity log clock in *'Badgernet'* is out of sync by an hour and actually starts from 03:13 through 05.37.

The panel had sight of the IT '*Audit Trail of observations'* dated 14-15 October 2023 of Mrs Tanner and the *'Badgernet Audit'* referred to in Witness 1 Witness Statements. The panel noted that both sources confirm that Mrs Tanner was on duty on 15 October 2023 and that patient notes were completed by her on the system, and Colleague 1 and several other colleagues' records were accessed and searched by her on the system.

The panel had regard to the '*Badgernet Audit'* table produced and noted that Mrs Tanner had searched Colleague 1's record at 02:51:40, 02:51:44, and at 02:52:01 selected Colleague 1's record for viewing. The panel further noted that the '*Badgernet Audit'* shows that Mrs Tanner searched and selected several records including those of

other colleagues. The panel determined that these times align with the 03:51 time it is alleged Mrs Tanner accessed Colleague 1's records, taking account of the sync issue identified by Witness 1 in her email of 20 October 2023.

The panel noted that Mrs Tanner denies the charge. Her completed *'Personal contact and employment details form'* to the NMC labelled 12 December 2023, includes:

> *'...it was brought to my attention by many of my other colleagues that the one log in system we used was widely known [sic] to have an error leaving other staff members logged in. This included staff members who were logged in whilst being on days off.'*
>
> *...*
>
> *'I did not, never have and never would breach the IT systems data rules. I have no idea who accessed the system...'*
>
> ...
>
> '[Person 1] *informed me [sic] after leaving that whilst she was AL she was contacted as she was showing as actively logged into the system and making entries to other patients notes.* [Person 1] *was at home with no access.'*
>
> *...*
>
> '[Person 2] *informed me at my leaving party that she had been working recently and whilst typing her notes she became aware she was actually typing on another staff members account.'*

The panel was satisfied on the balance of probabilities, that there is clear evidence from the *'IT Audit Trail'* and '*Badgernet Audit'* that Mrs Tanner was the actual staff member who logged into those systems and accessed the private and confidential medical records of Colleague 1 and searched medical records for names of midwives she

worked with when she had no clinical justification to do so. The panel therefore finds this charge proved in its entirety.

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

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

Representations on misconduct and impairment

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

The NMC invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of 'The Code: Professional standards of practice and behaviour for nurses, midwives and nurses associates (2015' (the Code) in making its decision.

In written submissions provided to the panel, the NMC identified the specific, relevant standards in the Code where the NMC say Mrs Tanner's actions amounted to misconduct: 5.1, 5.2, 5.4, 5.5, 20.1, 20.8 and 20.10.

The NMC submitted that the concerns raised are serious and demonstrates conduct that has fallen significantly short of the standards expected of a registered midwife. The Code imposes a clear duty on nurses, midwives and nursing associates to practise safely. Registered professionals occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and families must be able to trust registered professionals with their lives and the lives of their loved ones.

The NMC submitted that Mrs Tanner's actions by viewing Colleague 1's records that contained sensitive social history and becoming aware of her colleague's [PRIVATE], was a breach of professional boundaries. Mrs Tanner abused her position as a professional and breached the trust placed in her as professional. Accessing clinical records without the necessary authority or clinical justification to do so has the potential to create a risk of harm to patients. This is because patients may be less likely to seek care and treatment if they are afraid their information will not remain confidential. Therefore, Mrs Tanner's actions have the potential to undermine the confidence placed in the profession.

The NMC requires the panel to bear in mind its overarching objective to protect 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.

The NMC invited the panel to find Mrs Tanner's fitness to practise impaired on the grounds of public protection and also in the wider public interest.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin).

Decision and reasons on misconduct

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

The panel was of the view that Mrs Tanner's actions did fall significantly short of the standards expected of a registered midwife, and that her actions amounted to a breach of the Code. The panel determined the following sections of the Code to be engaged:

> ***'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.*
> ***5.2*** *make sure that people are informed about how and why information is used and shared by those who will be providing care.*
> ***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.*
> ***20.10*** *use all forms of spoken, written and digital communication (including social media and networking sites) responsibly, respecting the right to privacy of others at all times.'*

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that Mrs Tanner's actions amounted to serious misconduct. Her repeated failures to promote professionalism and trust represented a serious departure from the standards expected of a registered midwife.

The panel considered Mrs Tanner's actions of viewing Colleague 1's records that contained sensitive social history and becoming aware of her [PRIVATE] was a breach professional boundaries. The panel determined that Mrs Tanner had abused her position as a professional breached the trust placed in her as professional.

The panel determined that accessing clinical records without the necessary authority or clinical justification to do so has the potential to create a risk of harm to patients. Patients may be less likely to seek care and treatment if they are concerned that their personal clinical information would not remain confidential. Therefore, Mrs Tanner's actions have the potential to undermine the confidence placed in the profession. Members of the public have to be confident that their private and personal information is only accessed when it is clinically needed to be.

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

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Mrs Tanner'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.'*

Midwives 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 midwives with their lives and the lives of their loved ones. To justify that trust, midwives must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* in reaching its decision. In paragraph 74, she said:

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

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's *"test"* which reads as follows:

> *'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/their fitness to practise is impaired in the sense that S/He/They:*
>
> a) *has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
>
> b) *has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
>
> c) *has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
>
> d) *....'*

The panel found limbs a) – c) are engaged in this case.

The panel determined that Mrs Tanner was in a privileged position of trust and had no clinical justification to access the records of Colleague 1 and other midwives who worked at her workplace. The panel determined that Colleague 1 was also a patient and was entitled to have trust and confidence that her private clinical records would not be accessed by those not involved in her clinical care. The panel determined that there is a consequent risk that breaches of confidentiality and professional boundaries can create a risk of harm to patients.

The panel finds that patients were put at risk as a result of Mrs Tanner's misconduct. Mrs Tanner's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Regarding insight, the panel determined that it has not been provided with any evidence of insight from Mrs Tanner, how her actions put the patients at a risk of harm, shown any understanding of what she did was wrong and how this impacted negatively on the reputation of the midwifery profession.

The panel was satisfied that the misconduct in this case is capable of being addressed. The panel therefore carefully considered the evidence before it in determining whether or not Mrs Tanner has taken steps to strengthen her practice. The panel was of the view that it had no evidence before it of any relevant training undertaken or reflective piece written by Mrs Tanner, furthermore her employment status is unknown. The panel determined that there is a risk of repetition. It therefore concluded 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; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that members of the public would find Mrs Tanner's actions to be deplorable if it were to learn that a midwife not involved in a colleague and

patients' care can access private clinical records and go into notes containing information not known to the wider team. The panel concluded that failing to mark such misconduct with a finding of impairment would undermine public confidence in the profession and the NMC as its regulator. The panel, therefore, concluded that a finding of impairment was also in the wider public interest.

Having regard to all of the above, the panel was satisfied that Mrs Tanner'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 12 months with review. The effect of this order is that the NMC register will show that Mrs Tanner'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.

Representations on sanction

The panel noted that in the Statement of Case, the NMC had advised Mrs Tanner that it would seek the imposition of a suspension order for a period of 12 months with review, if it found Mrs Tanner's fitness to practise currently impaired.

Decision and reasons on sanction

Having found Mrs Tanner'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:

- Mrs Tanner's lack of insight
- Mrs Tanner's abuse of position of trust through her unauthorised access of highly sensitive patient data without justification

The panel could not identify any mitigating features.

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 misconduct in this case, and the public protection issues identified, an order that does not restrict Mrs Tanner's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where '*the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mrs Tanner'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 Mrs Tanner'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;*
- *No evidence of general incompetence;*
- *Potential and willingness to respond positively to retraining;*

- *The nurse or midwife has insight into any health problems and is prepared to agree to abide by conditions on medical condition, treatment and supervision;*
- *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 is of the view that there are no practical or workable conditions that could be formulated, given the concerns highlighted by Mrs Tanner's misconduct in this case. Furthermore, the panel concluded that the placing of conditions on Mrs Tanner'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 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;*
- *In cases where the only issue relates to the nurse or midwife's health, there is a risk to patient safety if they were allowed to continue to practise even with conditions; and*
- *In cases where the only issue relates to the nurse or midwife's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions.*

The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register. The panel was of the view that Mrs Tanner's actions was a single act involving a course of conduct accessing multiple colleagues' clinical patient records. The panel determined that Mrs Tanner's actions were serious in nature and warrants the imposition of a suspension order.

The panel 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. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Mrs Tanner'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 potential hardship such an order may inevitably cause Mrs Tanner. However the panel determined that 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 midwife.

The panel determined that a suspension order for a period of 12 months with review was appropriate in this case to mark the seriousness of the misconduct in this case.

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:

- Mrs Tanner's reflective piece
- Mrs Tanner's engagement with the NMC

- Mrs Tanner's evidence of General Data Protection Regulation (GDPR) training

This will be confirmed to Mrs Tanner in writing.

Interim order

As the 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 Mrs Tanner's own interests until the substantive suspension order sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Representations on interim order

The panel took account of the written representations made by the NMC that if a finding is made that Mrs Tanner's fitness to practise is impaired on a public protection basis is made and a restrictive sanction imposed, there should be an interim order imposed. This order should be imposed in the same terms as the substantive order Such an order is necessary for the protection of the public and is also otherwise in the public interest.

Decision and reasons on interim order

As the suspension order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Mrs Tanner's own interests until substantive suspension order sanction takes effect.

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 serious nature of the facts found proved, and the reasons set out in its decision for the substantive 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 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 allow the time required for any potential appeal process.

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

That concludes this determination.