

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

**Substantive Meeting
Friday, 18 July 2025**

Virtual Hearing

Name of Registrant:	Philip John Whiles
NMC PIN	86C0801E
Part(s) of the register:	Nursing – Sub Part 1 RN1: Adult Nurse (6 June 1989)
Relevant Location:	Nottingham
Type of case:	Conviction
Panel members:	Shaun Donnellan (Chair, Lay member) Dino Rovaretti (Lay member) Rashmika Shah (Registrant member)
Legal Assessor:	Gillian Hawken
Hearings Coordinator:	Sabrina Khan
Consensual Panel Determination:	Accepted
Facts proved:	Charges 1a)
Facts not proved:	N/A
Fitness to practise:	Impaired
Sanction:	Striking-off order
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 Mr Whiles has waived his right regarding formal notice in an email dated 14 July 2025 which stated:

*“I am happy for this process to be expedited as the Council deems appropriate.
I waive formal notice regarding this process.”*

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mr Whiles has had 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) and has waived his right to receive formal notice.

Details of charge

That you a registered nurse:

1. On 19 March 2024 at the Crown Court, Nottingham, were convicted of the following offences:
 - a. Fraud x 2

And in light of the above your fitness to practise is impaired by reason of your convictions.

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 Mr Whiles.

The agreement, which was put before the panel, sets out Mr Whiles full admissions to the facts alleged in the charges and that his fitness to practise is currently impaired by reason of his conviction. It is further stated in the agreement that an appropriate sanction in this case would be a striking-off order.

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 Philip John Whiles ('Mr Whiles'), PIN 86C0801E ("the Parties") agree as follows:

1. Mr Whiles is content for his case to be dealt with by way of a CPD meeting.

Preliminary matters

2. In an email to the NMC dated 16 June 2025, Mr Whiles agreed to accept a shorter notice period than 28 days for the substantive meeting to expedite the process.

The charge

3. Mr Whiles admits the following charges:

That you a registered nurse:

1. On 19 March 2024 at the Crown Court, Nottingham, were convicted of the following offences:

a. Fraud x 2

And in light of the above your fitness to practise is impaired by reason of your convictions.

The facts

4. In June 1989 Mr Whiles qualified as a registered nurse. He started employment at the Royal College of Nursing ('RCN') as a regional officer in November 2007.

5. Person A was a family friend of several years of Mr Whiles. Mr Whiles described himself as Person A's 'unofficial carer'. In around 2018 Mr Whiles applied for a will for and lasting power of attorney over Person A. As part of the assessment process for these documents, on 21 November 2018 Person A was assessed by a doctor as lacking capacity surrounding control of his finances. A will and lasting power of attorney therefore could not be obtained. Person A suffers from Alzheimer's disease and was later diagnosed with vascular dementia.

6. On 15 January 2020 and 10 February 2020 Mr Whiles impersonated Person A with a bank book, counterpart driving license and bank card in Person A's name and withdrew £2000 each time i.e., a total of £4000. On 20 February 2020 Mr Whiles went into the bank and attempted to withdraw another £2000 from Person A's bank account. A staff member realised that Mr Whiles was not Person A and called the police. The police took Mr Whiles home, where he provided them with numerous financial files and documents in Person A's name. He also handed the police a quantity of cash from his safe, which amounted to £9000.

7. According to the sentencing remarks, from one of Person A's bank accounts Mr Whiles made 62 cash withdrawals between 4 December 2018 and 28 December 2019. The total amount obtained was £15,440. From Person A's second bank account he made 65 cash withdrawals between 13 December 2018 and 19 February 2020. The total amount he obtained from that account was £15,520.

8. During his police interview on 23 September 2020, Mr Whiles told the police that he had been meant to receive £100,000 in inheritance from Person A but following his diagnosis of vascular dementia a will confirming this could not be drafted. This had made Mr Whiles angry. He said he had practiced Person A's signature a few

times and decided to withdraw money from the accounts as a way of getting some inheritance.

9. On 01 February 2021 Mr Whiles submitted a self-referral to the NMC. On 31 March 2021 he left the employ of the RCN by mutual consent.

10. On 22 April 2021 and 19 March 2024 Mr Whiles pleaded guilty to and was convicted of fraud. The basis of his guilty plea was that he had dishonestly obtained about £17,000 from Person A's accounts. The judge accepted that some of the withdrawals set out at paragraph 7 above were used to keep up Person A's property. On 23 May 2024 Mr Whiles was sentenced to 12 months imprisonment, suspended for 24 months. He was also ordered to undergo mental health treatment by a qualified psychologist as a non-resident for 9 months.

11. In a signed Case Management Form ('CMF') dated 21 May 2025, Mr Whiles admitted the charge and conceded that his fitness to practise is impaired.

Conviction

12. Rule 31(2) of the Fitness to Practise Rules 2004 provides that a certificate of conviction shall be conclusive proof of that conviction and that the findings of fact upon which the conviction is based shall be admissible as proof of those facts. The Parties agree that the signed certificate of conviction from Nottingham Crown Court is conclusive evidence of Mr Whiles' convictions.

13. At the relevant times Mr Whiles was subject to the provisions of the NMC Code of Conduct. The Code sets out the professional standards that nurses must uphold. These are the standards that patients and members of the public expect from health care professionals.

14. It is agreed that the following provision(s) of the Code have been breached in this case;

20 Uphold the reputation of your profession at all times

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

20.2 act with honesty and integrity at all times

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

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

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

15. The Parties have considered the conviction with reference to the NMC Guidance on 'Convictions and Cautions (FTP-2c)'. The guidance states that the NMC will almost always take concerns to a Fitness to Practise panel when a registrant has been convicted of any of the serious crimes it classifies as specified offences and or where a registrant has received a custodial sentence. The NMC's guidance entitled 'Directly referring specified offences to the Fitness to Practise Committee (Ref: FTP-2c-1)', provides that specified offences include serious offences such as 'offences that relate to ... a substantial financial gain or serious financial loss to any person.'

16. Given the nature of the offending and the fact that Mr Whiles received a custodial sentence, it is agreed that the convictions are serious. The nature and seriousness of the convictions in this case are such that public trust and confidence in the profession of nursing is undermined.

Impairment

17. The Parties agree that Mr Whiles' fitness to practise is currently impaired by reason of his conviction.

18. The NMC's guidance entitled 'Impairment (Reference: DMA-1)' explains that impairment is not defined in legislation but is a matter for the Fitness to Practise Committee to decide. It involves a consideration of both the nature of the concern and the public interest when addressing the question - "Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"

19. 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.

20. The Parties agree that consideration of the nature of the concern involves looking at the factors set out by Dame Janet Smith in the 5th Shipman Report (as endorsed in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin)) (the 'Grant test') are instructive. Those questions were:

(a) has [the Registrant] in the past acted and/or is liable in the future to act as so to put a patient or patients at unwarranted risk of harm; and/or

(b) has [the Registrant] in the past brought and/or is liable in the future to bring the [nursing] profession into disrepute; and/or Page 4 of 13

(c) has [the Registrant] in the past committed a breach of one of the fundamental tenets of the [nursing] profession and/or is liable to do so in the future and/or

(d) has [the Registrant] in the past acted dishonestly and/or is liable to act dishonestly in the future.

21. 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."

22. It is agreed that limbs (a) to (d) are engaged.

Limb (a)

23. Safeguarding of people from financial abuse is a fundamental tenet of nursing. It is agreed that by withdrawing money from Person A's bank accounts without authorisation, Mr Whiles committed financial abuse of Person A. His actions constituted a breach of trust placed in him by Person A, the realisation of which placed Person A at unwarranted risk of harm e.g., lack of trust in those who seek to help in in the future and mental distress.

Limb (b)

24. Patients and families must be able to trust registered professionals with their lives and the lives of their loved ones, especially those who are vulnerable. Registered professionals must therefore act with integrity at all times.

25. It is agreed that Mr Whiles' convictions have brought the nursing profession into disrepute and are highly likely to erode the trust and confidence in the profession. The seriousness of the convictions such that they call into question his professionalism and trustworthiness in the workplace. The public would be shocked and disturbed to learn that a registered nurse had fraudulently withdrawn several thousands of pounds over several years from the bank accounts of a vulnerable family friend who lacked mental capacity surrounding control of his finances.

Limb (c)

26. It is agreed that Mr Whiles' convictions demonstrate a serious breach of the fundamental tenets of the profession by failing to act with honesty and integrity. Mr Whiles was aware that Person A lacked the necessary capacity to authorise the withdrawals yet repeatedly made them anyway for his own financial gain.

Limb (d)

27. Mr Whiles has been convicted for the offences of fraud, an inherent component of which is dishonesty.

28. Impairment is a forward-thinking exercise which looks at the risk the registrant's practice poses in the future. 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 which the court set out as being 'highly relevant' to the determination of the question of current impairment, these are:

(i) Whether the conduct that led to the charge(s) is easily remediable.

(ii) Whether it has been remedied.

(iii) Whether it is highly unlikely to be repeated.

Limb (i)

29. The Parties have considered the NMC's guidance entitled: 'Can the concern be addressed? (Reference: FTP-15a)'. The guidance states that criminal convictions for specified offences may not be possible to address. Mr Whiles has been convicted of serious offences of fraud. Furthermore, it is agreed that the conduct underlying the conviction to demonstrate a deep-seated attitudinal issue, which cannot be remediated. Insight, along with tangible and targeted remediation such as training and demonstrable nursing competency, cannot remedy this type of concern. Therefore, the convictions are not easily remediable.

Limbs (ii) and (iii)

30. The Parties have considered the NMC's guidance entitled: 'Has the concern been addressed? (Reference: FTP-15b)' and 'Is it highly unlikely that the conduct will be repeated? (Reference: FTP-15c)'.

31. Notwithstanding the fact that the convictions cannot be remediated through insight or targeted training, Mr Whiles entered an early guilty plea to one of the criminal charges. It is agreed that by virtue of this early guilty plea, he has shown some, albeit extremely limited, insight.

32. On sentencing, the learned judge made the following remarks:

'At the time of your arrest you demonstrated regret and a degree of remorse at your behaviour. You were not formally interviewed until September 2020, I note. I note, though, your account of how it came to be that you sought to access the money in the [first] bank account and how you justified to yourself what you were doing. There was a certain determination on your part to access the funds, fuelled by an anger, I would judge, that you having sacrificed time and effort to care for [Person A] would miss out on some financial reward from his estate. You pleaded guilty at the magistrates' court on 22 February 2021 to the fraud in respect of the [first] bank account but not guilty in respect of the [second bank account] matters. You were, therefore, committed to sentence to this court in relation to that guilty plea and I shall deal with you for that in a moment. Let me say, though, at this point that I give you full credit for that early indication of guilt. I can accept from what I have read that you were under considerable stress at the time of these events... and now you were seeking to care for, and this is someone to whom I would judge you were close and who, himself, was descending into the same turmoil, and doing so without being able to make any gesture of thanks as you felt you deserved. So, you took matters into your own hands. You failed utterly to consider the consequences for both [Person A] and for yourself; your thinking, as the probation report puts it, was "skewed". What has happened is a sad fall from grace for you. You were a man of previous good character, educated, qualified and held in esteem by your colleagues. Whilst you have accepted your responsibility it cannot be overlooked that your course of conduct was deliberate and took place over a period of time... You were in a position of trust in relation to the vulnerable [Person A] and you abused that trust. The sum involved of £17,000 is not insignificant; the misconduct went over a period of time and was deliberate and considered even if some funds that were withdrawn were properly used towards [Person

A]'s welfare... I do have the impression that if you had not been stopped you would have continued to take money from the accounts. The impact of your offending on [Person A] was high, in my judgment, because of his vulnerability and as I perceive it his inability to do anything about matters...'

33. Mr Whiles has also demonstrated some insight in his correspondence with the NMC. In an email to the NMC dated 12 August 2024, Mr Whiles wrote:

'When the hearing takes place to determine the sanction that will be imposed on me, I understand that I have not only let myself and my family down through my actions, but more importantly I have undermined any trust the profession may have in me. I have unfortunately let down the profession I have loved and dedicated my life to for many years. I would expect nothing less than a permanent removal from the register and would obviously not wish to appeal any decision you make in this case...'

34. In an Agreed Removal application dated 01 June 2025, Mr Whiles wrote:

'I have plead guilty to the charges made against me. I do not wish to raise any personal circumstances or context to mitigate my situation. ...However following this incident, I would not expect to be trusted by my profession (though this was not work related). I breached the professional standards and so would not feel comfortable practicing, even if I was given the opportunity. I would therefore ask that I be permanently removed from the Nursing Register. I am now spending time with my family, doing some volunteer work (conviction disclosed).'

35. Mr Whiles has been subject to an interim suspension order since 01 March 2021 and has not worked as a nurse since. He has therefore been unable to practically demonstrate strengthened practice, and he has not provided evidence of any relevant training undertaken.

Public protection

36. *A finding of impairment is thus necessary on public protection grounds based on the seriousness of the concerns, lack of sufficient insight, lack of remediation, and risk of repetition.*

Public interest

37. *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.”

38. *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.*

39. *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.*

40. However, there are types of concerns that are so serious that, even if the professional addresses the behaviour, a finding of impairment is required either to uphold proper professional standards and conduct or to maintain public confidence in the profession.

41. The Parties agree there is a public interest in a finding of impairment being made in this case to declare and uphold proper standards of conduct and behaviour. Mr Whiles' convictions engage the public interest because an individual convicted of such offences cannot be allowed to continue practising.

Sanction

42. With reference to the NMC's sanction guidance the Parties agree that the appropriate and proportionate sanction in this case is a striking-off order.

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

- Abuse of position of trust
- Fraud over a lengthy period of time for personal financial gain
- Person A was vulnerable by virtue of his health conditions

44. There are no mitigating factors.

45. Whilst criminal sentencing practice is aimed at punishment, regulatory proceedings are calculated to protect the public from harm and to satisfy wider public interest considerations.

46. The NMC guidance (SAN-2) regarding sanctions for particularly serious cases cites the case of *Bolton v Law Society* [1994] 1 WLR 512:

‘Cases about criminal offending by nurses, midwives or nursing associates illustrate the principle that the reputation of the professions is more important than the fortunes of any individual member of those professions. Being a

registered professional brings many benefits, but this principle is part of the 'price'.

47. With regard to the NMC's sanctions guidance the following aspects have led the Parties to this conclusion:

47.1. As a public protection issue has been identified in this case, it would not be appropriate (1) to take no further action or (2) to impose a caution order. This is because neither sanction would restrict the practice of Mr Whiles and would therefore be insufficient to protect the public.

47.2. Imposing a conditions of practice order would be inappropriate. There are no areas of clinical concern which might more readily be addressed by way of training or assessment. There are no practical conditions that can be imposed to reflect the seriousness of the facts of this case, nor address public interest concerns.

47.3. Having considered the factors set out in the guidance at SAN-3d, a suspension order would be would not be sufficient to protect the public. The convictions are fundamentally incompatible with ongoing registration. The fraudulent withdrawals took place over a period of approximately two years. The nature of the convictions demonstrates a harmful deep-seated attitudinal problem and there is a risk of repetition. A suspension order would not reflect the seriousness of the case. Therefore, public confidence in the profession and professional standards would not be maintained.

47.4. A striking-off order is the appropriate and proportionate sanction. Considering the factors set out in the guidance at SAN-3e, it is agreed that the convictions raise fundamental questions about Mr Whiles' trustworthiness and professionalism. Mr Whiles abused his position of trust and financially abused a vulnerable family friend by fraudulently withdrawing thousands of pounds from Person A's bank accounts. The concerns are directly linked to a risk of damaging the public's confidence in the profession,

as the public may consequently be led to avoiding use of health and care services.

47.5. Further, the case of Council for the Regulation of Health Care Professionals v General Dental Council & Fleischmann [2005] EWHC 87 (Admin) should be Page 11 of 13

taken into consideration. In general, the rule is that a nurse, midwife or nursing associate should not be permitted to start practising again until they have completed their sentence for a serious offence. This case falls under this category as the offending conduct is serious, involving a breach of fundamental tenets of the profession, leading to an ongoing custodial sentence.

47.6. The NMC has considered and relies on cases such as Ige v Nursing and Midwifery Council [2011] EWHC 3721 to support the decision of a strike off despite there being no concerns around Mr Whiles' clinical skills. The case of Ige is an example which displays the courts supporting decisions to strike off healthcare professionals where there has been lack of probity, honesty or trustworthiness, notwithstanding that in other regards there were no concerns around the professional's clinical skills. Striking-off orders have been upheld on the basis that they have been justified for reasons of maintaining trust and confidence in the professions. Similarly, in this case, although there were no concerns around Mr Whiles' clinical skills or honesty, conduct of such severity significantly undermines the public's trust and confidence in the profession.

Maker of allegation comments

48. Mr Whiles submitted a self-referral to the NMC in this case. Given the self-referral, the NMC has not sought referrer's comments on this occasion.

Interim order

49. It is agreed that an interim order is required in this case. The interim order is necessary for the protection of the public and is 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 Mr Whiles 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. 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.'

Here ends the provisional CPD agreement between the NMC and Mr Whiles. The provisional CPD agreement was signed by Mr Whiles and the NMC on 15 July 2025.

Decision and reasons on the CPD

The panel decided to accept the CPD.

The panel heard and accepted the legal assessor's advice. She referred the panel to the 'NMC Sanctions Guidance' (SG) and to the 'NMC's guidance on Consensual Panel Determinations'. She reminded the panel that they could accept, amend or outright reject the provisional CPD agreement reached between the NMC and Mr Whiles. 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 Mr Whiles admitted the facts of the charges. Accordingly, the panel was satisfied that the charges are found proved by way of Mr Whiles admissions as set out in the signed provisional CPD agreement.

Decision and reasons on impairment

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

In respect of conviction, the panel determined that Mr Whiles' conduct which led to the conviction fell short of the standards expected from a registered nurse. It considered that Mr Whiles' actions placed a vulnerable person at risk of financial harm, which may also cause psychological distress, even if the individual lacked capacity at the time. The emotional consequences of financial abuse, especially by someone trusted, can be significant and enduring. Whilst no direct clinical harm was caused, the conduct resulted in serious breach of trust and undermines the duty of care owed to vulnerable individuals.

The panel determined that Mr Whiles' conduct clearly brought the nursing profession into disrepute. The public rightly expects nurses to act with honesty, integrity, and professionalism, particularly when caring for elderly and vulnerable individuals. It was of the view that theft from such a person, however personal the relationship may be, is a gross betrayal of that trust.

The panel found that Mr Whiles' actions breached the fundamental tenets of the nursing profession, including honesty and integrity. The panel noted that Mr Whiles had pleaded guilty to the offence and assisted the police in recovering some of the money, which was acknowledged. However, the panel considered that this did not demonstrate sufficient insight or remediation. The conviction for dishonesty goes to the heart of what it means to be a registered nurse.

In assessing whether the behaviour is capable of remediation, has been remediated, and is unlikely to be repeated, the panel found:

- While some aspects of dishonesty may be capable of remediation, deep-seated attitudinal issues such as financial abuse of the vulnerable are inherently difficult to address.
- The panel found no evidence of meaningful insight, remorse, or reflection from Mr Whiles.
- In the absence of such evidence, the panel could not be satisfied that the behaviour is unlikely to be repeated.

In this respect, the panel endorsed paragraphs 17 to 35 of the provisional CPD agreement in respect of conviction.

The panel then considered whether Mr Whiles' fitness to practise is currently impaired by reason of conviction. 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 Mr Whiles' fitness to practise is currently impaired on the grounds of both public protection and the wider public interest.

The panel determined that there remains a risk of repetition, and members of the public, particularly elderly or vulnerable individuals, require protection from such conduct. It also

determined that a finding of impairment is necessary to uphold proper standards of conduct and to maintain public confidence in the nursing profession and in its regulator. The public would be rightly concerned if a nurse who had committed such a serious breach of trust were allowed to practise unrestricted.

In this respect the panel endorsed paragraphs 36 to 41 of the provisional CPD agreement.

Decision and reasons on sanction

Having found Mr Whiles' 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 provisional CPD agreement:

- Abuse of position of trust
- Fraud over a lengthy period of time for personal financial gain
- Person A was vulnerable by virtue of his health conditions

The panel also took into account of the mitigating circumstances:

- Mr Whiles pleaded guilty to the criminal offence and assisted in the recovery of some of the funds.
- There was no previous fitness to practise history before the incident.

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 Mr Whiles' 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 Mr Whiles' misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mr Whiles' registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. Furthermore, the panel concluded that the placing of conditions on Mr Whiles' 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;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Mr Whiles' actions is fundamentally incompatible with Mr Whiles remaining on the register.

In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

The panel took into consideration, the legal advice in relation to the case of *Londa Opare v Nursing and Midwifery Council* [2019] EWHC 1851 (Admin). It considered firstly what in its own judgement was the appropriate and proportionate sanction in this case.

The panel determined that Mr Whiles' actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with him remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Mr Whiles' actions were serious and to allow him to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel agreed with the CPD that the appropriate and proportionate sanction is that of a striking-off order. Mr Whiles' conduct was fundamentally incompatible with remaining on the register.

The panel found the conduct to be pre-meditated, deliberate, sustained, and exploitative, involving a vulnerable individual with whom the registrant had a close personal

relationship. The dishonesty damages the nursing profession, which relies on integrity and trust.

Public confidence in the profession would be seriously undermined if a nurse who committed such an offence were allowed to return to practice.

Having regard to the matters it identified, in particular the effect of Mr Whiles's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct himself, the panel has concluded that nothing short of this would be sufficient in this case.

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

The panel noted that while Mr Whiles is entitled to request a future return to the register, under the *Fleischmann* principle, a registrant who is subject to a criminal sentence (including suspended sentences or probation) should not be permitted to practise until that sentence has been served in full. The panel acknowledged, however, that Mr Whiles has not sought to return to practice, and there is no indication that such a request will be made in the near future.

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 Mr Whiles' 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 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 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 due to ensure that Mr Whiles cannot practise unrestricted before the substantive striking-off order takes effect. This will cover the 28 days during which an appeal can be lodged and, if an appeal is lodged, the time necessary for that appeal to be determined.

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

That concludes this determination.