

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

**Substantive Hearing
Monday 2 June 2025 – Wednesday 11 June 2025**

Nursing and Midwifery Council
2 Stratford Place, Montfichet Road, London, E20 1EJ

Name of Registrant: Helen Hooper

NMC PIN: 84Y1928E

Part(s) of the register: RM Registered Midwife (27 September 1989)
RN1, Registered nurse-Adult (13 April 1987)

Relevant Location: Devon

Type of case: Misconduct

Panel members: David Hull (Chair, Lay member)
Michelle Wells-Braithwaite (Registrant member)
Tricia Breslin (Lay member)

Legal Assessor: Nigel Mitchell

Hearings Coordinator: Anya Sharma

Nursing and Midwifery Council: Represented by Nawazish Choudhury, Case
Presenter

Ms Hooper: Not present and not represented

Facts proved: Charges 1a, 1b, 1c, 2a, 2b, 3a, 3b, 4, 5, 6, 7, 8a,
10, 11, 12, 14, 15a and 15b

Facts not proved: Charges 3c(i), 3c(ii), 8b, 9, 13a(i), 13a(ii) and
13b

Fitness to practise: Impaired

Sanction: Striking-off order

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 Ms Hooper was not in attendance and that the Notice of Hearing letter had been sent to Ms Hooper's registered email address by secure email on 28 April 2025.

Mr Choudhury, 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 allegations, the time, dates and venue of the hearing and, amongst other things, information about Ms Hooper's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all of the information available, the panel was satisfied that Ms Hooper 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 Ms Hooper

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

Mr Choudhury referred the panel to an email from Ms Hooper sent to her case officer at the NMC on 7 April 2025 at 13:03, which set out the following:

'Hi ... , thank you I appreciate your e mail and the support you are offering. I was being supported by the Union but as I am retired, no longer work as a nurse and did not want to participate in any proceedings, they are not supporting me.

[PRIVATE]

Regards Helen'

Mr Choudhury explained to the panel that the 'Union' which Ms Hooper is referring to is the Royal College of Nursing (RCN), who informed the NMC via email on 20 January 2025 that they were coming off the record for Ms Hooper.

Mr Choudhury also referred the panel to an email that the NMC Case Officer sent in response to Ms Hooper's email on 7 April 2025 at 14:17. The email indicated that a copy of Ms Hooper's email will be placed before this panel, and the panel will be made aware that Ms Hooper is not attending and is happy for the hearing to proceed in her absence. On 7 April 2025, the NMC Case Officer received the following response from Ms Hooper:

'... I understand

Just to confirm, I will not be attending the hearing.

Kind regards

Helen'

Mr Choudhury also referred the panel to Ms Hooper's registrant response bundle and set out that this includes evidence that the panel will be able to take into account during the course of the hearing.

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 has decided to proceed in the absence of Ms Hooper. In reaching this decision, the panel has considered the submissions of Mr Choudhury, the email correspondence between Ms Hooper and the NMC included within the NMC Proceeding in Absence Bundle, and the advice of the legal assessor. It has 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. It noted that:

- No application for an adjournment has been made by Ms Hooper;
- Ms Hooper has informed the NMC that she has received the Notice of Hearing and confirmed that she is content for the hearing to proceed in her absence;
- There is no reason to suppose that adjourning would secure Ms Hooper's attendance at some future date;
- A number of witnesses have been scheduled to give live evidence over the next few days;
- 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 2019 and 2020;
- 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.

There is some disadvantage to Ms Hooper in proceeding in her absence. Although the evidence upon which the NMC relies was sent to Ms Hooper, she will not be able to challenge the evidence relied upon by the NMC in person 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 Ms Hooper'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 Ms Hooper. The panel will draw no adverse inference from Ms Hooper's absence in its findings of fact.

Decision and reasons on application to amend the charge

On day 1 of the hearing (2 June 2025), the panel heard an application made by Mr Choudhury, on behalf of the NMC, to amend the wording of charges 5 and 14 to correct two typographical errors in dates.

On day 3 of the hearing (4 June 2025), the panel invited Mr Choudhury to make an application to amend typographical errors present within charges 3c(ii), 5, 9, 13(b), 14 and 15(b).

It was submitted by Mr Choudhury that the proposed amendments, as set out below, would provide clarity and more accurately reflect the evidence.

5) On 19 November 20219, caused payment to be made Person A and/or Physical Wellness Services.

9) In November/December 2019, upon the original contract coming to an end, without authorisation, purported to extend the contract.

13) Your conduct at charges 10-12

b) was an abuse of your position of trust in that you relied on the trust colleagues and/or managers and/or the Trust placed in you to ensure that you could access funds to pay Person A and/or Physical Wellness Services when a valid contract was not in place.

14) Between 10 September 2020 and 18 September 2020 provided the Trust with an inaccurate account of your relationship with Person A.

15) You conduct in charge 14 was dishonest in that:

b) you sought to minimise your relationship with Person A and thereby the extent of conflict of interest that arose in your awarding a contract and administering payment to Person A/their company.

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

The panel was of the view that such amendments, as applied for, were in the interest of justice. The panel was satisfied that there would be no prejudice to Ms Hooper and no injustice would be caused to either party by the proposed amendments being allowed. It was therefore appropriate to allow the amendments, as applied for, to ensure clarity and accuracy.

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

At the outset of the hearing, Mr Choudhury made a request that this case be held partly in private on the basis that proper exploration of Ms Hooper's case involves reference to her health and personal matters. 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 rule on whether or not to go into private session in connection with Ms Hooper's health and personal matters as and when such issues are raised.

Details of charge (as amended)

That you, a registered nurse, whilst employed by Devon Partnership NHS Trust ("the Trust") as a senior manager, between July 2019 and July 2020:

- 1) Upon the original service provider needing to be replaced, allowed Person A and/or their company ('Physical Wellness Services') to provide a wellness programme on behalf of the Trust without:
 - a. advising the Trust that you were in a personal relationship with Person A.
 - b. following the correct process for awarding contracts of this kind.
 - c. ensuring that Person A and/or the employees of Physical Wellness Services were subject of required pre-employment checks.

- 2) Your conduct at charge 1 was an abuse of your position of trust in that you relied on the trust colleagues and/or managers and/or the Trust placed in you to:
 - a. subvert the proper processes by which contracts of this kind were to be awarded.
 - b. allow individuals who had not undergone required pre-employment checks to undertake work on behalf of the Trust.

- 3) Your conduct in charge 1 was dishonest in that you:
 - a. knew the proper processes had not been followed when awarding Person A and/or their company the contract to provide a wellness service on behalf of the Trust;
 - b. knew Person A and/or the employees of Physical Wellness Services had not undergone required pre-employment checks;
 - c. represented to colleagues and/or managers/ and/or the Trust that:

- i. the proper processes had been followed in awarding the contract.
 - ii. the individuals providing the service had been subject of required pre-employment checks and were able to work with the relevant patients.
- 4) On 08 July 2019, caused payment to be made to Person A and/or Physical Wellness Services.
- 5) On 19 November 2019, caused payment to be made Person A and/or Physical Wellness Services.
- 6) Your conduct at charges 4 and/or 5:
 - a. lacked integrity in that you knew that the proper processes had not been followed in awarding Person A and/or Physical Wellness Services the contract for the work undertaken.
 - b. lacked integrity in that you did not know whether any issues which would have been highlighted by required pre-employment checks should have prevented Person A / the employees of Physical Wellness Services from undertaking the work for which they were being paid.
- 7) Your conduct at charges 4 and/or 5 was an abuse of your position of trust in that you relied on the trust colleagues and/or managers and/or the Trust placed in you to ensure payment to Person A and/or Physical Wellness Services went unchallenged.
- 8) Your conduct at charges 4 and/or 5 was dishonest in that:
 - a. you knew there were issues with the award and/or performance of the contract which could impact on payment
 - b. you represented to colleagues and/or managers/ and/or the Trust that there were no such issues.

9) In November/December 2019, upon the original contract coming to an end, without authorisation, purported to extend the contract.

10) In December 2019, caused payment to be made to Person A and/or Physical Wellness Services.

11) On 18 March 2020, caused payment to be made to Person A and/or Physical Wellness Services.

12) On 08 April 2020, caused payment to be made to Person A and/or Physical Wellness Services.

13) Your conduct at charges 10-12:

a. was dishonest in that you:

- i. knew there was no longer a valid contract for any organisation to provide a wellness programme on behalf of the Trust.
- ii. you caused Person A and/or Physical Wellness Services to be paid from Trust budgets for providing a wellness programme.

b. was an abuse of your position of trust in that you relied on the trust colleagues and/or managers and/or the Trust placed in you to ensure that you could access funds to pay Person A and/or Physical Wellness Services when a valid contract was not in place.

14) Between 1 September 2020 and 18 September 2020 provided the Trust with an inaccurate account of your relationship with Person A.

15) Your conduct in charge 14 was dishonest in that:

a. you knew you had a very close relationship with Person A.

- b. you sought to minimise your relationship with Person A and thereby the extent of conflict of interest that arose in your awarding a contract and administering payment to Person A/their company.

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

Decision and reasons on application to admit hearsay evidence of Ms 1 and Ms 2

The panel heard an application made by Mr Choudhury under Rule 31 to allow the local interview statements of both Ms 1 and Ms 2 into evidence. He submitted that neither of these local interview statements are the sole or decisive evidence in this matter. Mr Choudhury submitted that it is the NMC's position that these local interviews were carried out in the ordinary course of affairs by Witness 2 and provide some helpful additional background matter for the panel to consider.

Mr Choudhury explained to the panel that both local statements set out Ms 1 and Ms 2's positions, how they know Ms Hooper and Ms Hooper's role, as well as an acknowledgment of the need for a declaration of interest and the processes to be followed and the importance of pre-employment checks. Mr Choudhury submitted that this is information that is also contained within the witness statements of Witness 1, Witness 3 and Witness 4.

In fairness to Ms Hooper, Mr Choudhury referred the panel to the following extract from Ms 1's local interview written statement:

'She was quite a maverick with regards to using the money to spend here and use an underspend there to do something else, with all the best intentions in the world so not suggesting, just thinking about some of the challenges we have picked up more recently with ... going into post and understanding budget lines etc. and unpicking service level agreements, there were lots of agreements which were made without further consideration to the Directorate, further considerations to

myself as Directorate Manager to sign off and the understanding around the impact of those.'

In relation to the nature and extent of the challenge, Mr Choudhury submitted that along with the rest of the NMC documentation, the local interview statements of Ms 1 and Ms 2 would have been sent to Ms Hooper at the time of the local investigation and also in advance of this hearing, during the course of the NMC's investigation.

In relation to whether there is any suggestion that the witnesses have any reason to fabricate their allegations, Mr Choudhury submitted that Ms Hooper has provided a detailed registrant response bundle, within which she has not accused any of the NMC witnesses of fabricating their evidence or that they have any reason to do so. Mr Choudhury submitted that this could be balanced with Ms Hooper's own admissions included within her registrant response bundle.

In relation to the seriousness of the charge, Mr Choudhury set out that the allegations in this case are of a very serious nature relating to dishonesty, an abuse of a position of trust and a lack of integrity, involving a senior nurse.

Mr Choudhury then addressed the panel in relation to the following:

- Whether there is a good reason for the non-attendance of Ms 1 and Ms 2
- Whether the NMC have taken sufficient steps to secure the attendance of Ms 1 and Ms 2
- Whether Ms Hooper had prior notice that the statements of Ms 1 and Ms 2 were going to be read.

Mr Choudhury informed the panel that the NMC did not obtain witness statements of Ms 1 and Ms 2 on the reason of proportionality to the matters in this case. He submitted that despite this, the NMC did at one stage make attempts to reach out to Ms 1, but she did not provide the NMC with a witness statement. Mr Choudhury submitted that the NMC wish to inform the panel that Ms Hooper has always been aware of the local

interview statements of Ms 1 and Ms 2 and has made no objection to them being included in the NMC bundle. He submitted that Ms Hooper has also chosen to voluntarily absent herself from the hearing, and was represented by the RCN, who came off the record last year. Mr Choudhury submitted that the RCN would have also had sight of all of the NMC documentation, including the written interview statements of Ms 1 and Ms 2, and if there was an issue, they would have also raised it with the NMC at the time.

The panel heard and accepted the advice of the legal assessor, who referred it to the test set out in the case of *Thorneycroft v Nursing and Midwifery Council [2014] EWHC 1565 (Admin)*.

The panel considered the NMC's application in respect of Ms 1 and Ms 2 separately.

The panel took into account the following when considering whether to admit the local interview statements of Ms 1 and Ms 2:

1. Whether the statements were the sole and decisive evidence in support of the charges;
2. The nature and extent of the challenge to the contents of the statements;
3. Whether there was any suggestion that the witnesses had reasons to fabricate their allegations;
4. The seriousness of the charge, taking into account the impact which adverse findings might have on Ms Hooper's career;
5. Whether there was a good reason for the non-attendance of the witnesses;
6. Whether the NMC has taken reasonable steps to secure the attendance of the witness;
7. The fact that Ms Hooper did not have prior notice that the witness statements were to be read.

In relation to Ms 1 and Ms 2, the panel considered that her local interview statement was not the sole or decisive evidence in support of the charges brought against Ms Hooper. The panel considered that there is other evidence before it from other NMC

witnesses, by way of their written statements and local interview statements which corroborates that of Ms 1 and also provides some context. The panel noted that the other NMC witnesses were also part of the local investigation that was conducted by Witness 2.

In relation to the nature and extent of the challenge to the contents of the statement, the panel considered that Ms Hooper would have been aware of Ms 1 and Ms 2's local interview statement for a considerable amount of time, and it would have been provided to her at an early stage of both the Trust's local investigation and the NMC's investigation. The panel also took into account that Ms Hooper was legally represented by the RCN, who have since gone off the record. The panel noted that Ms Hooper has also provided a detailed response in her registrant response bundle, which does not provide any indication that she is unhappy with either Ms 1 or Ms 2's local written interview statement being included within the NMC bundle.

In relation to whether there was any suggestion that Ms 1 and Ms 2 had any reason to fabricate the allegations, the panel considered that Ms 1 did mention in her local interview statement that she did not know Ms Hooper very well. The panel was therefore of the view that it has no evidence before it to suggest that either Ms 1 or Ms 2 has any reason to fabricate anything against Ms Hooper. The panel also took into account the extract from Ms 1's local interview statement that it was referred to by Mr Choudhury, which provided a balanced view of Ms Hooper.

In relation to the seriousness of the charge, the panel considered that the charges brought against Ms Hooper are of a very serious nature and have been extensively investigated by the NMC, and both Ms 1 and Ms 2's local interview statements of themselves do not increase the severity or the seriousness of the case.

The panel then considered the following: whether there is a good reason for the non-attendance of Ms 1 and Ms 2, whether the NMC have taken sufficient steps to secure the attendance of Ms 1 and Ms 2, and whether Ms Hooper had prior notice that the statements of Ms 1 and Ms 2 were going to be read. The panel took into account Mr Choudhury's submissions as to proportionality and considered that it could be

disproportionate for the NMC to call every witness that was interviewed as part of the investigation. The panel considered that Witness 3, who headed the investigation, is attending to give oral evidence and is a key witness, and it is reasonable that the panel have Ms 1 and Ms 2's local interview statements in lieu of their attendance at the hearing. The panel was therefore of view that there is a good reason for the non-attendance of Ms 1 and Ms 2.

The panel considered that the NMC had made several attempts to secure a witness statement from Ms 1, who did not respond. The panel also took into account that Ms Hooper was aware of Ms 1 and Ms 2's local interview statements from the outset of the investigation.

Taking all of this into account, the panel was of the view that it would be fair and relevant to admit the local interview statements of Ms 1 and Ms 2 into evidence but would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

Background

Mr Choudhury provided the panel with a background to the case and referred it to the relevant parts of the NMC bundle, as well as Ms Hooper's registrant response bundle.

Ms Hooper was referred to the NMC on 11 March 2021. Ms Hooper began working for Devon Partnership Trust ("the Trust") in April 2015 and originally registered with the NMC in 1999. The concerns that form the subject of this referral relate to Ms Hooper's employment at the Trust.

Ms Hooper worked for the Trust as a Senior Manager and were seconded to the role of Transformation Manager in Older People's Mental Health ("OPMH"). In that role, Ms Hooper was responsible for implementing a wellness programme for vulnerable patients and service users to engage with. This service had previously been provided by another colleague and was called Sole2Soul. That colleague had to take time away from Sole2Soul, leaving Ms Hooper responsible for finding a replacement service provider.

Ms Hooper arranged for Person A, and his business, Physical Wellness Services, to replace Sole2Soul. The contracts for Physical Wellness Services were extended several times and Ms Hooper was responsible for approving the invoices sent by Person A.

When Ms Hooper's secondment contract finished and she reverted back to a previous role, Witness 2 took over the OPMH role and found Ms Hooper had allegedly used up the financial budget. It was not clear how Ms Hooper had used up so much of the budget as the decision on how money was spent should have followed a transparent process, as it ought to have been influenced by the clinical leads. The process required Ms Hooper to put in a bid for the additional work and write a business case supported by the strategic leads within the organisation. It should then formally have been approved by a Board of Executives and Senior Managers. Ms Hooper's manager should also have been aware of it. It is alleged that Ms Hooper did not follow this process. Witness 2 therefore raised concerns with the HR and Finance teams, who launched an investigation. Counter Fraud were also asked to investigate.

It is alleged that Ms Hooper also failed to conduct appropriate pre-employment checks, which included arranging for DBS checks to be carried out in order for Person A to work with vulnerable patients, did not put him through any induction process, nor monitor the work he did with vulnerable patients.

It transpired that Ms Hooper and Person A had been in a personal relationship for a number of years, prior and during his provision of services to the Trust. It is alleged that Ms Hooper did not disclose the nature of her relationship with Person A which is a breach of Trust policy. Ms Hooper admitted to the nature of her relationship during her

disciplinary proceedings and confirmed she had been in a romantic relationship with Person A from October 2013 until September 2019. [PRIVATE].

Ms Hooper was dismissed from the Trust on 9 March 2021.

Decision and reasons on application to admit the supplementary witness statement of Witness 3

On 3 June 2025, Mr Choudhury made an application under Rule 31 to admit the supplementary witness statement of Witness 3. Mr Choudhury informed the panel that Witness 3, who is due to give oral evidence shortly, had looked upon her systems in preparation for giving evidence and contacted the NMC on 2 June 2025 as she was of the view that there was an issue to be raised.

Mr Choudhury submitted that in the circumstances where a witness contacts the NMC a day before they are due to give oral evidence, the NMC is put in a difficult position, as it has to be fair to the registrant. He submitted that in this situation, where a relevant witness has shared that there is something that they wish to bring to the attention of the NMC, the NMC acted properly by taking a supplementary witness statement ahead of making an application for it to be admitted into evidence. Mr Choudhury informed the panel that as is normal practice, the NMC Case Coordinator has sent the supplementary witness statement to Ms Hooper as a matter of professional courtesy.

Mr Choudhury submitted that the panel may wish to ask Witness 3 why she felt it was appropriate to write this supplementary witness statement, and what she would like to say to the panel about it. He submitted that this does not change the nature of the charges, not does it fundamentally alter the change of the evidence.

Mr Choudhury submitted that it is accepted by the NMC that this is a new matter that has been raised by Witness 3, and that Ms Hooper has not been give prior notice of this. Mr Choudhury submitted however that it would be relevant to admit this supplementary witness statement as it does go towards evidence surrounding the

general performance of the physical wellness services, the invoices and Ms Hooper's involvement in this.

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

The panel considered that Ms Hooper would not have been provided with prior notice of this new line of enquiry by Witness 3 and was therefore of the view that it would be unfair to admit Witness 3's supplementary witness statement at this very late stage.

Decision and reasons on facts

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Choudhury on behalf of the NMC and Ms Hooper's extensive registrant response bundle of 191 pages, containing explanations and a number of positive testimonials from fellow health practitioners. The panel also noted that Ms Hooper has had no adverse findings made against her.

The panel has drawn no adverse inference from the non-attendance of Ms Hooper.

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: Nominated Local Counter Fraud Specialist for the Trust at the time of the incidents

- Witness 2: Self-employed HR Professional Consultant at the time of the incidents
- Witness 3: Service Manager at the Trust at the time of the incidents
- Witness 4: Deputy Director of Finance at the Trust at the time of the incidents

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 both the NMC and Ms Hooper.

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

Charge 1a)

- 1) Upon the original service provider needing to be replaced, allowed Person A and/or their company ('Physical Wellness Services') to provide a wellness programme on behalf of the Trust without:
 - a. advising the Trust that you were in a personal relationship with Person A.

This charge is found proved.

In reaching this decision, the panel took into account Ms Hooper's written response dated February 2021, as well as the investigatory hearing interview notes dated October 2020.

The panel had sight of Ms Hooper's written response dated February 2021 included within the registrant response bundle, in which she sets out:

'Person A and I formed a romantic relationship in October of 2013... In September of 2019 I ended the romantic relationship and continued to manage him in his role providing health and fitness programmes to DPT Adult service users.'

Taking the above into account, the panel noted that the original service provider, Sole2Soul, stopped providing services in August 2019. The panel considered that it has very clear evidence before it that, at the time, Ms Hooper was in a personal relationship with Person A which she did not disclose, and commissioned Person A to provide a wellness programme under Physical Wellness Services.

The panel also had sight of Ms Hooper's investigatory hearing interview notes dated October 2020 where she was interviewed by Witness 2, in particular Ms Hooper's admission that she should have made a declaration of knowledge in relation to her relationship with Person A:

Witness 2:

'... do you agree that you should have declared your knowledge of [Person A]'

Ms Hooper:

' Yes, I have always... I have said that I thought I said that at the beginning. I should have declared my knowledge. I should have...

...

So, in terms of policies and procedures, I hold my, I am yeah, I absolutely know I didn't follow all of the policies and procedures....'

The panel also had sight of the following from Ms Hooper's written response:

'Between 2018 and 2020 I was in a position in which I did not follow organisational policy and procedure and as a Senior Manager within the NHS, made some serious errors of judgement. I employed my partner to do a role within the organisation... I did not disclose my relationship and did not adhere to a number of policies.'

The panel took into account that Witness 3, who was of a similar band of seniority to Ms Hooper, in her oral evidence spoke about how Ms Hooper, being a senior service manager, would have known what she had to do in terms of declaring her interest in relation to Person A.

The panel considered that Ms Hooper was a very senior nurse and would have been fully cognisant of her obligations in terms of the policies, procedures and declaration of interests, and despite this, Ms Hooper took an active decision to not inform the Trust that she was in a personal relationship with Person A.

The panel therefore find this charge proved.

Charge 1b)

b) following the correct process for awarding contracts of this kind.

This charge is found proved.

In reaching this decision, the panel took into account Ms Hooper's written response dated February 2021, as well as the investigatory interview notes dated September 2020.

The panel had sight of the following from Ms Hooper's written response:

'Between 2018 and 2020 I was in a position in which I did not follow organisational policy and procedure and as a Senior Manager within the NHS, made some serious errors of judgement'

The panel also heard oral evidence from Witness 4, who clearly explained the process around awarding contracts, and the compression of time for bidding for funding as part of the winter pressure application. The panel took into account that Witness 4 mentioned that there were also opportunities for employees to be transparent, such as disclosing the three quotes at the time of looking to appoint a supplier, and in the event that this had not been done, there was a single waiver process that one could apply for to show that you had been transparent when awarding a contract. The panel considered that Ms Hooper would have been aware of this, as she has set out in her written response above, given her senior position at the Trust, and would have made an active decision to not follow the correct process.

The panel therefore find this charge proved.

Charge 1c)

- c) ensuring that Person A and/or the employees of Physical Wellness Services were subject of required pre-employment checks.

This charge is found proved.

In reaching this decision, the panel took into account the following extract from Ms Hooper's written response dated February 2021:

'Between 2018 and 2020 I was in a position in which I did not follow organisational policy and procedure and as a Senior Manager within the NHS, made some serious errors of judgement. I employed my partner to do a role within the organisation at that time he was not a user of MH services. I did not disclose my relationship and did not adhere to a number of policies. Whilst at the time I was aware I was breaching a number of policies, my intent was to provide a good service but also to support my partner in a role that he could achieve at. At the time I felt I was in the wrong on two counts, not declaring my relationship with and not completing DBS check, however on reflection I can see that I made

other errors. At the time I was aware that I should have declared that I was in a relationship with and that I should have completed a DBS check however, I believe and still do that a good service was delivered to service users and that it was value for money.'

The panel also had sight of Ms Hooper's investigatory hearing interview notes dated September 2020 which took place with Witness 2:

In response to Witness 2 asking whether Ms Hooper has done any checks when Person A was commissioned, Ms Hooper responded:

Witness 2: *'Did Procurement get involved at all when Person A was commissioned?'*

Ms Hooper: *'No'*

...

'I checked references and insurance liability

...

No, I didn't do a DBS check'

The panel took into account that it had also heard oral evidence from Witness 1, Witness 2 and Witness 3, which corroborate what is included in the interview notes.

The panel therefore find this charge proved.

Charges 2a) and 2b)

- 2) Your conduct at charge 1 was an abuse of your position of trust in that you relied on the trust colleagues and/or managers and/or the Trust placed in you to:

- a. subvert the proper processes by which contracts of this kind were to be awarded.
- b. allow individuals who had not undergone required pre-employment checks to undertake work on behalf of the Trust.

These charges is found proved.

The panel have considered charges 2a and 2b separately but have written them up together as they arise from the same sources of evidence and facts.

In reaching this decision, the panel took into account Ms Hooper's written response dated February 2021 included within her registrant response bundle, copies of interview notes which formed part of the local investigation and email correspondence between Ms Hooper and other Service Managers at the Trust.

The panel considered the following from Ms Hooper's written response:

'Between 2018 and 2020 I was in a position in which I did not follow organisational policy and procedure and as a Senior Manager within the NHS, made some serious errors of judgement. I employed my partner to do a role within the organisation at that time he was not a user of MH services. I did not disclose my relationship and did not adhere to a number of policies. Whilst at the time I was aware I was breaching a number of policies, my intent was to provide a good service but also to support my partner in a role that he could achieve at. At the time I felt I was in the wrong on two counts, not declaring my relationship with and not completing DBS check, however on reflection I can see that I made other errors. At the time I was aware that I should have declared that I was in a relationship with and that I should have completed a DBS check however, I believe and still do that a good service was delivered to service users and that it was value for money.'

The panel considered that Ms Hooper accepted in her written response that she did not follow the correct and proper processes expected of her as a senior manager.

The panel was of the view that Ms Hooper had exploited and abused her position of trust in her senior management position. It considered that Ms Hooper would have had a high level of trust placed into her by other senior colleagues who worked with her, and that Ms Hooper would have been inherently trusted by senior managers in the organisation in respect of having access to funding and making key decisions. As a result of this, these managers would not have found it necessary to question if Ms Hooper had followed the correct processes as it would be implicit that by her level of seniority within the organisation and her relationship with these senior managers. Ms Hooper would have been aware of this. The panel considered Ms Hooper's reflection included within her written response and was of the view that she would have known that what she was doing was wrong.

The panel therefore find this charge proved.

Charge 3a) and 3b)

- 3) Your conduct in charge 1 was dishonest in that you:
 - a. knew the proper processes had not been followed when awarding Person A and/or their company the contract to provide a wellness service on behalf of the Trust;
 - b. knew Person A and/or the employees of Physical Wellness Services had not undergone required pre-employment checks;

These charges are found proved.

The panel have considered charges 3a and 3b separately but have written them up together as they arise from the same sources of evidence and facts.

In reaching this decision, the panel took into account its findings in relation to the entirety of charge 1. The panel also noted the case of *Ivey v Genting Casinos [2017] UKSC 67*.

The panel also took into account Ms Hooper's written response, her reflective accounts, and a number of positive testimonials and references attesting to her professional skills, judgement, honesty and integrity.

The panel noted that Ms Hooper in her written response states *'that she was in the wrong', 'that there were serious errors of judgement' and 'I knew that I should have completed a DBS check'*. The panel further noted that despite this, Ms Hooper has vehemently denied that her actions were dishonest.

The panel considered, based on its previous findings, that Ms Hooper was aware at the time that the proper processes had not been followed when she awarded the contract to Person A's company, Physical Wellness Services, and that she had not undertaken the required pre-employment checks. The panel also considered that Ms Hooper knew that these processes and the pre-employment checks should have been done but had chosen not to do them. Accordingly, the panel concluded that these actions were subjectively dishonest.

The panel considered that Ms Hooper's actions were also dishonest by the standards of ordinary decent people and therefore find charges 3a and 3b proved.

Charge 3c)

- c. represented to colleagues and/or managers/ and/or the Trust that:
 - i. the proper processes had been followed in awarding the contract.
 - ii. the individuals providing the service had been subject of required pre-employment checks and were able to work with the relevant patients.

These charges are found NOT proved.

The panel have considered charges 3c(i) and 3c(ii) separately but have written them up together as they arise from the same sources of evidence and facts.

In relation to these charges, the panel took the word 'represented' to mean Ms Hooper took some positive action that demonstrated to others that the proper processes had been followed and that the individuals providing the service had been subject to the required checks.

In reaching this decision, the panel considered that it has no evidence before it that Ms Hooper had represented to colleagues or managers at the Trust that proper processes had been followed in awarding the contract, and that the individuals providing the service had been subject of required pre-employment checks and were able to work with the relevant patients. The panel was therefore of the view that the NMC has not discharged its burden.

Charge 4)

- 4) On 08 July 2019, caused payment to be made to Person A and/or Physical Wellness Services.

This charge is found proved.

In reaching this decision, the panel had sight of the email correspondence between Ms Hooper and Witness 4.

The panel had sight of an email dated 14 June 2019, sent by Ms Hooper to Witness 4 and another service finance manager:

'Hi Both the Sole2 soul project has been running for 6 months and has been a real success, however we only had money for 6 months which ends in August and we have 40 patients now really engaged and asking what will happen after that

We have a lot of evidence of its success but to truly evaluate the project we really would like to run it for a further 6 months !

To do this I need 15.75 K

I wonder is this can be considered ?'

The panel also had sight of an email dated 8 July 2019, sent by Witness 4 to Ms Hooper:

'Hi Helen

Per our conversation on Friday, we have agreed to temporarily provide £15k bridge funding (non recurrent) for this based on the assumption that we will include this in any future winter pressure funding application.

Ta'

The panel also had sight of email correspondence sent between Ms Hooper and the cash management department between 15 July and 18 July 2019, with the subject 'urgent invoice'. The panel noted that Ms Hooper had sent a number of follow up emails asking when the invoice will be paid, with increasing urgency on when it will be paid.

The panel considered the wording of the email sent by Ms Hooper and was of the view that Ms Hooper had placed pressure on the cash management colleague to pay the invoice. The panel took into account that it had heard evidence from Witness 4 that the cash management colleague involved in processing would have been junior and a band 3. The panel was of the view that the cash management colleague would have seen that the emails from Ms Hooper also had a number of senior members of staff copied into the email chain, which provided both credibility and authority to the request for payment.

Taking all of this into account, the panel was of the view that Ms Hooper had caused payment to be made to Person A on 8 July 2019 and therefore finds this charge proved.

Charge 5)

- 5) On 19 November 2019, caused payment to be made Person A and/or Physical Wellness Services.

This charge is found proved.

In reaching this decision, the panel took into account the payment request dated 19 November 2019, raised by Ms Hooper for £5,700 to be paid to Person A/Physical Wellness Services.

The panel also had sight of an email dated 19 November 2019 sent by Ms Hooper to a colleague, which states the following:

'[Person A] has been unpaid for 3 weeks so please can we see if we can push this though'

The panel also had sight of other email correspondence with the same colleague, where it appears that Ms Hooper provides several explanations when asked questions about paying Person A. The panel considered that it has a catalogue of email correspondence before it where it appears that Ms Hooper is chasing colleagues and pushing for payment to be made on several occasions and invested considerable time and effort to ensure that Person A was paid.

Taking all of this into account, the panel was of the view that Ms Hooper had caused payment to be made to Person A on 19 November 2019 and therefore finds this charge proved.

Charge 6)

6) Your conduct at charges 4 and/or 5:

- a. lacked integrity in that you knew that the proper processes had not been followed in awarding Person A and/or Physical Wellness Services the contract for the work undertaken.
- b. lacked integrity in that you did not know whether any issues which would have been highlighted by required pre-employment checks should have

prevented Person A / the employees of Physical Wellness Services from undertaking the work for which they were being paid.

These charges are found proved.

The panel have considered charges 6a and 6b separately but have written them up together as they arise from the same sources of evidence and facts.

In reaching this decision, the panel considered the case of *Wingate & Evans v SRA [2018] EWCA Civ 366*. It noted that dishonesty and a lack of integrity are not synonymous, and for professional persons, a lack of integrity is proved by showing that their profession's ethical code or standards of conduct have been disregarded. In professional codes of conduct, the term 'integrity' is used to express the higher standards which society expects from professional persons, and which the profession expect from their own members. Integrity connotes adherence to the ethical standards of one's own profession and involves more than mere dishonesty.

The panel next considered its findings in relation to charges 4 and 5. The panel noted that Ms Hooper was aware that what she was doing was wrong, and that she had used her position of seniority to ensure that payments were made by pushing through invoices to be paid to Person A and never disclosed her failings in terms of the policies and procedures that she knew she had not followed.

The panel considered that Ms Hooper was a very senior manager who made many budgetary and key decisions as part of her role, and she would have been expected to adhere to the highest standards expected of a nursing professional, which Ms Hooper did not do. The panel also took into account that Ms Hooper's colleagues would not have facilitated payment and assisted her in ensuring that payments were made to Person A if they had known that Ms Hooper had not followed the policies, procedures and pre-employment checks. The panel considered that Ms Hooper had multiple opportunities to recognise that she was doing something wrong, to stop and to correct her actions, but continued to push colleagues, who had no knowledge that Ms Hooper

had not done the checks and assumed faith in Ms Hooper as a very senior manager, for payment to be made.

The panel determined that Ms Hooper's conduct did amount to a lack of integrity, in that it is a serious departure from the standards expected of a nursing professional and also what is expected of a professional in such a senior role.

The panel therefore find charge 6 proved.

Charge 7)

- 7) Your conduct at charges 4 and/or 5 was an abuse of your position of trust in that you relied on the trust colleagues and/or managers and/or the Trust placed in you to ensure payment to Person A and/or Physical Wellness Services went unchallenged.

This charge is found proved.

In reaching its decision, the panel took into account its findings in relation to charge 4 and 5.

The panel noted that Ms Hooper was in a very senior managerial position at the Trust, and as a result, people would have had certain expectations of her and would have taken those as a given, considering the senior level Ms Hooper held at the Trust. Ms Hooper would have been aware that she would not be subject to the same level of scrutiny as her colleagues due to her seniority. The panel considered that Ms Hooper was able to use the trust placed in her by her colleagues at the Trust and use the knowledge she had about where the budget weaknesses were and how she could bypass and subvert the Trust's policies and procedures. The panel therefore determined that Ms Hooper had abused her position of trust in her senior role in the way that she dealt with her colleagues and staff at the Trust, such as when she was chasing invoices with the cash management department, to ensure that payment was made to Person A.

The panel therefore find this charge proved.

Charge 8a)

8)Your conduct at charges 4 and/or 5 was dishonest in that:

a)you knew there were issues with the award and/or performance of the contract which could impact on payment

This charge is found proved.

The panel considered each charge in relation to dishonesty separately.

In reaching its decision, the panel took into account its findings in relation to charges 4 and 5. The panel noted from its previous findings that Ms Hooper had chosen not to follow the normal procedures when awarding the contract and despite this, pressured colleagues to ensure that payments were made to Person A. Accordingly the panel concluded that these actions were subjectively dishonest. It also considered that it heard oral evidence that Ms Hooper's colleagues were 'shocked' and 'gobsmacked' when they found out about this.

The panel was therefore of the view that Ms Hooper's actions were also dishonest by the standards of ordinary decent people, and find this charge proved.

Charge 8b)

b) you represented to colleagues and/or managers/ and/or the Trust that there were no such issues.

This charge is found NOT proved.

The panel considered each charge in relation to dishonesty separately.

In relation to this charge, the panel took the word 'represented' to mean Ms Hooper took some positive action that demonstrated to others that the proper processes had been followed and that the individuals providing the service had been subject to the required checks.

In reaching this decision, the panel took into account its findings in relation to charges 4 and 5. The panel considered that whilst Ms Hooper had sent numerous emails chasing payment to be made to Person A, this is not the same as representing to colleagues and managers at the Trust that there were no such issues with the award and or performance of the contract which could impact on payment.

The panel considered that it has no evidence before it in relation to this charge and was therefore of the view that the NMC has not discharged its burden and this charge is not proved.

Charge 9)

- 9) In November/December 2019, upon the original contact coming to an end, without authorisation, purported to extend the contract.

This charge is found NOT proved.

In reaching its decision, the panel had sight of the following from Witness 1's witness statement:

Helen advised ... that she tried [Witness 4] and failed and therefore the first invoice was charged to ... budget (22650). The previous budget had been the Psychological budget, which had the funding for winter pressures. The invoices dated December 2019 and 18 March 2020 were charged to 22650, this is the Nursing and Professions budget, which is held by had emailed his secretary advising to provide the budget code and they would keep the details for the account to recharge. This meant that it would be recharged to the proper budget at later date. However, Helen never had the proper budget as a Purchase Order

had not been raised (as advised by the Deputy Director of Finance, paragraph 7 above) and it hadn't been agreed that the project could be extended.

...

Helen had sent two different contracts: one in November 2019 and another in March 2020. The contract advises that he would provide services from March 2020 worth £9000. Helen was not given approval to do this.

...

In Helen's new-seconded role, she didn't have authority to approve the invoices, but she continued to authorise them herself, charging them to two different budget codes.

The panel also took into account Witness 1's oral evidence. It acknowledged that Witness 1 gave evidence that Ms Hooper never had a proper budget as a purchase order had not been raised and said that it had not been agreed that the project could be extended.

The panel also had sight of an email sent by Ms Hooper to the Chief Executive of the Trust on 14 November 2019 at 16:20, which states:

'Dear ...

Thank you for supporting this project

I had asked to bring this to the Board in February of this year and was given the date in November. I was expecting another 6 months funding from the winter pressures money but I understand this has not happened. I understand stopping the service so abruptly was not professional but due to dedication he has had 2 weeks unpaid while I was hoping that I could find some monies to support this until Christmas

The costs are as follows for 9 weeks:

£10 per gym session = 25 per week = £2250

Cost of Instructor £14.80 per hour / 37.5 hours per week - 9 weeks left = £ 4995'

The Chief Executive responded to Ms Hooper in an email on 14 November 2019 at 16:28:

'Helen

Thank you

I have spoken to ... and he has agreed my decision'

The panel was of the view that the email correspondence between Ms Hooper and a variety of senior managers, including the Chief Executive, showing that their authorisation to continue funding the Physical Wellness Services has been given. The panel was of the view that despite not going through the normal processes for extending the contract with Physical Wellness Services, that the authorisation to extend the project came directly to Ms Hooper from the highest management level i.e., the Chief Executive of the Trust.

The panel therefore find this charge not proved.

Charge 10)

10) In December 2019, caused payment to be made to Person A and/or Physical Wellness Services.

This charge is found proved.

In reaching this decision, the panel had sight of email correspondence between Ms Hooper and Person A. The panel noted that on 26 November 2019 at 13:07, Person A sent an invoice to Ms Hooper, which she forwarded to the Senior Management Accountant at the Trust on 26 November 2019 at 13:21.

The panel also had sight of further emails sent by Ms Hooper to the Senior Management Accountant at the Trust, where she is chasing the payment of the invoice, and provides reassurance, causing payment to be made to Person A.

Taking all of this into account, the panel was of the view that Ms Hooper had caused payment to be made to Person A in December 2019 and therefore finds this charge proved.

Charge 11)

11) On 18 March 2020, caused payment to be made to Person A and/or Physical Wellness Services.

This charge is found proved.

In reaching its decision, the panel had sight of an email sent by Ms Hooper to the Cash Management Department at the Trust, with Person A copied in. The email subject was 'INVOICE 18', stating:

*'Hi Please can you process
Thank you'*

The panel also had sight of the corresponding invoice dated 18 March 2020.

The panel also had sight of an email sent by Ms Hooper on 27 March 2020 to the Cash Management Department at the Trust, stating the following:

*'Hi I sent you an invoice last week and earlier today as it has not been paid
We have a contractual obligation to pay this and I have heard from the colleague
that he has no ability to pay his bills now this weekend or ability to get to work on
Monday
Please can you advise'*

Ms Hooper received the following email response from the Cash Management department on 30 March 2020:

'Apologies Helen

I can see the invoice has been approved for payment but is on the system showing a due date of 17/04/20 and therefore was not picked up on the payment run

I have arranged for an Emergency payment to be made today

This will be showing in Account later today

Thanks so much'

Taking all of this into account, the panel was of the view that Ms Hooper had caused payment to be made to Person A on 19 November 2019 and therefore finds this charge proved.

Charge 12)

12) On 18 March 2020, caused payment to be made to Person A and/or Physical Wellness Services.

This charge is found proved.

In reaching its decision, the panel had sight of an email dated 8 April 2020 sent by Ms Hooper to the Cash Management Department at the Trust, with Person A copied in. The email subject was 'Physical Wellness', stating:

'Please process and pay from budget code ...'

The panel noted from the email above that Ms Hooper provided a budget code and was of the view that by way of doing this, Ms Hooper had facilitated payment being made. It also had sight of the corresponding invoice dated 8 April 2020.

Taking all of this into account, the panel was of the view that Ms Hooper had caused payment to be made to Person A on 18 March 2020 and therefore finds this charge proved.

Charge 13(a)(i)

13) Your conduct at charges 10-12:

- a. was dishonest in that you:
 - i. knew there was no longer a valid contract for any organisation to provide a wellness programme on behalf of the Trust.

This charge is found NOT proved.

In reaching its decision, the panel took into account its findings in respect of charges 10, 11 and 12.

The panel had sight of the Trust Investigatory Hearing Interview notes dated September 2020, where Ms Hooper makes reference to there being a contract with Person A.

The panel had sight of contracts included within Ms Hooper's registrant response bundle, titled 'agreement to act as a physical health instructor', which cover the relevant time period. This included a contract of 22 November 2019 between the Trust and Physical Wellness Services, signed and dated 4 December 2019 by both Ms Hooper and Person A.

The panel also considered the email chain dated 14 November 2019, where it appears from email correspondence Ms Hooper had with the Chief Executive at the Trust, who

had validated the continuation/extending of the contract, having agreed to support the project with Physical Wellness Services by guaranteeing ongoing funding.

The panel therefore find this charge not proved.

Charge 13(a)(ii)

- ii. you caused Person A and/or Physical Wellness Services to be paid from Trust budgets for providing a wellness programme.

This charge is found NOT proved.

In reaching its decision, the panel took into account its findings in respect of charges 10, 11 and 12.

Having considered the evidence before it, the panel concluded that the NMC had not established any dishonesty arising from payments made to Person A from Trust budgets. Accordingly, the NMC has not discharged the burden of proof, on the balance of probabilities, that Ms Hooper had acted dishonestly.

The panel therefore find this charge NOT proved.

Charge 13b)

- b. was an abuse of your position of trust in that you relied on the trust colleagues and/or managers and/or the Trust placed in you to ensure that you could access funds to pay Person A and/or Physical Wellness Services when a valid contact was not in place.

This charge is found NOT proved.

In reaching its decision, the panel took into account its findings in relation to charge 13(a)(i).

The panel was not satisfied on the balance of probabilities that the NMC had proved to a sufficient standard that there was not a valid contract in place. It took into account that, as per its findings in respect of charge 13(a)(i), there were two valid contracts in place between the Trust and Physical Wellness Services.

The panel also had sight of email correspondence between Ms Hooper and the Trust Chief Executive that the contract has been extended, and ongoing funding had been arranged to support the project.

The panel therefore find this charge NOT proved.

Charge 14

- 14) Between 1 September 2020 and 18 September 2020 provided the Trust with an inaccurate account of your relationship with Person A.

This charge is found proved.

In reaching its decision, the panel had sight of the Trust Investigatory Hearing Interview notes dated September 2020, where Ms Hooper repeatedly rejected any suggestion that her relationship with Person A was any form of personal or intimate relationship, despite several lines of enquiry by Witness 2. It can be seen within the notes that during the interview, Ms Hooper was asked by Witness 2 *'What's your relationship with Person A'*, and Ms Hooper responded *'Professional... it was a professional relationship'*.

Witness 2 then asked, *'No more than that?'*, and Ms Hooper responded *'Not working with him. I've just said to you, I knew him as an individual prior to the contract... he was a person I knew a colleague, a friend, whatever you want to call it. I went to Fitness First and asked them if they've got anybody, and they came up with his name and I had previously known him. So, I was assured... that he actually had the professional qualifications to do the job.'*

The panel also had sight of notes from a second interview, namely the Trust Investigatory Hearing Interview notes dated October 2020. During the interview, Ms Hooper was invited to read her prepared statement into the record, which set out the following:

'... I met Person A in 2013 in Fitness First as a manager and a qualified fitness trainer. Initially he was a friend but this developed into a relationship'

The panel also had sight of Ms Hooper's written reflection included within her registrant response bundle, which set out:

'...At the time I felt I was in the wrong ... , not declaring my relationship with Person A'

The panel therefore find this charge proved.

Charge 15a)

15) You conduct in charge 14 was dishonest in that:

- a. you knew you had a very close relationship with Person A.

This charge is found proved.

In reaching its decision, the panel took into account its findings in respect of charge 14. It also had sight of Ms Hooper's written response included within the registrant response bundle dated February 2021, in which she sets out:

'Person A and I formed a romantic relationship in October of 2013... In September of 2019 I ended the romantic relationship and continued to manage him in his role providing health and fitness programmes to DPT Adult service users.'

The panel also had sight of text message exchanges and emails of a personal nature between Ms Hooper and Person A throughout 2019 and extended into January 2020.

The panel considered that it has evidence of the close personal relationship between Ms Hooper and Person A, which Ms Hooper admitted to.

This involved Ms Hooper assisting Person A with the invoicing processes, securing a number of jobs and assisting with a complaint against the Trust, all of which are evidence of a close personal relationship. Ms Hooper accepted that she was in a close personal relationship with Person A, which was denied by her.

Taking all of this into account, the panel was of the view that Ms Hooper was dishonest by the standards of ordinary decent people over a sustained period of time, and therefore find this charge proved.

Charge 15b)

- b. you sought to minimise your relationship with Person A and thereby the extent of conflict of interest that arose in you awarding a contract and administering payment to Person A/their company.

This charge is found proved.

In reaching its decision, the panel took into account its findings in respect of charge 14.

The panel had sight of the Trust Investigatory Hearing Interview notes dated September 2020, where, in response to questions from Witness 2, Ms Hooper spoke at length about how she had a professional relationship with Person A:

'I knew him. I knew him as an individual. But that doesn't mean to say that wasn't anything, but when he was in contractual, it was a professional relationship...

...

I knew him as an individual prior to the contract... he was a person I knew a colleague, a friend, whatever you want to call it. I knew him prior to this, this obviously the contract, because ... I went to Fitness First and asked them if they've got anybody, and they came up with his name and I had previously known him. So, I was assured... that he actually had the professional qualifications to do the job. And that he was good at what he did cause I'd seen him in action myself. And, and I knew him. I knew him as a person, as an individual.

...'

In response to a question from Witness 2 as to whether Ms Hooper was aware that Person A was a service user, Ms Hooper stated the following:

'Well, I don't know when. I never looked into the background because that would be inappropriate for me to do. So, I never actually looked to see if he had been a service. I mean, he told me he had been a service user, but in terms of when he was a service user, I don't know.'

The panel considered that Ms Hooper was in a senior position at the Trust and would have been fully informed and aware of the declaration of interests policy. It further noted from the Trust Investigatory Hearing Interview notes dated September 2020 before it that when asked about her involvement with the complaint Person A had made to the Trust, that Ms Hooper had actively concealed from a number of colleagues that she was in a relationship with Person A:

Witness 2: *'...If you've only got a professional relationship with [Person A], why were you getting involved?'*

Ms Hooper: *'...I said I had a professional relationship in terms of the contract. I said, I knew him as a friend.'*

Witness 2: *'Right. OK. So, can you not see that you knew him as a friend, you've given him a contract, but you've not told anybody else about that. You've not declared it as a conflict of interest.'*

Ms Hooper: *'I didn't say I couldn't see that... And I am not denying that I can now see that's a conflict of interest. I hadn't seen that. I must admit, I hadn't really thought about that before. Because, well, I just haven't, I didn't see it as a conflict of interest knowing somebody and being a friend with somebody, that that would be a conflict of interest. If I had a personal relationship with him, I could see that as a conflict of interest, but there was as in, you know, sorry, what am I say personal, I mean, a relationship with him then that would be a very different matter, but there was no relationship with him. It was a, somebody I knew.'*

...

Witness 2: *'You were asked to complete a declaration in February or March this year, weren't you?... Which you didn't do'*

Ms Hooper: *'Yes'*

Witness 2: *'Which you didn't do'*

Ms Hooper: *'I did, didn't I? I think I did fill it, fill a form in, but I didn't put any conflict of interest down in it. I would have definitely filled in the form. Because that's part and parcel of what I would expect to do as a senior manager. So, I didn't put him down as a conflict of interest because at that point, well, I didn't, there's no because, I just didn't.'*

The panel heard evidence that declarations of interest were an annual requirement by the trust and Ms Hooper would have been aware of the obligation. The panel had sight of an email dated 20 March 2020, where Ms Hooper is being chased by a colleague to complete her annual declaration:

'Hi Helen,

Just catching up from work while I was on annual leave! Were you able to complete your DOI for ... to approve?

Thank you.'

On 20 March 2020, Ms Hooper responded to her colleague as follows:

'Whops no don't think I have !' [sic]

In later accounts, Ms Hooper accepted that she had lied to the Trust about her relationship with Person A. Taking all of the above into account, the panel determined that this would be seen as dishonest by the standards of ordinary decent people.

The panel therefore find this charge proved.

Fitness to practise

Submissions on misconduct

Mr Choudhury 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 and midwives 2015' (the Code) in making its decision.

Mr Choudhury identified the specific, relevant standards where Ms Hooper's actions amounted to misconduct. He referred the panel to the Code and submitted that there had been serious failures here and deviations from the Code that put the nursing profession into disrepute.

Mr Choudhury submitted that the acts and omissions of Ms Hooper that the panel have found proved are serious, constitute a significant failure of the expected conduct of a registered nurse and are significant departures from the Code. He further submitted that Ms Hooper's acts and omissions have put the nursing profession into disrepute.

Mr Choudhury then addressed the panel in relation to the dishonesty aspects of this case. He noted that the panel have found charges 2 and 7 proved in relation to an abuse of a position of trust, charges 3 and 16 proved in relation to dishonesty and charge 6 proved in terms of lack of integrity.

Mr Choudhury submitted that misconduct is established in this case as Ms Hooper was in a very senior position of trust and confidence and was expected to act at all times to the highest ethical standards and with integrity. He set out that Ms Hooper was in a position of power and had access to important and senior people above her. Mr Choudhury submitted that when considering all of the charges taken together, they are evidence of a serious dereliction of duty.

Submissions on impairment

Mr Choudhury 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 included reference to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Mr Choudhury submitted that for the same reasons as misconduct, in respect of impairment, the actions and omissions of Ms Hooper and the charges that the panel has found proved cover a wide range of areas which are fundamental to the nursing profession and safe nursing practice. He submitted that it is accepted that none of the charges relate to clinical practice and there is no suggestion that Ms Hooper's clinical knowledge or capability has been called into question. He submitted that honesty and integrity are the most fundamental aspects in the nursing profession. Mr Choudhury submitted that taking this into account along with the panel's findings in relation to dishonesty, abuse of a position of trust and a lack of integrity, which are significant breaches of fundamental tenets of the nursing profession, Ms Hooper's nursing practice can be found to be impaired.

In relation to strengthening of practice, Mr Choudhury referred the panel to Ms Hooper's registrant response bundle and invited the panel to consider that Ms Hooper has provided a number of positive testimonials from colleagues who have worked with Ms Hooper at a care home after these events in question. Ms Hooper has also provided a written reflection. Mr Choudhury reminded the panel that impairment is a forward-thinking exercise, and Ms Hooper has mentioned in multiple parts of her registrant response bundle that she is remorseful. He submitted that Ms Hooper has denied dishonesty and has expressly refuted that, and whilst that should not be held against her, the panel may consider that, in terms of the quality of evidence, that Ms Hooper may have been in a better position if she had accepted dishonesty and sought to remediate that aspect.

Mr Choudhury submitted that nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional standards. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones, and to justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients and the public's trust in the nursing profession. He submitted that Ms Hooper's case is one where honesty, integrity and abuse of a position of trust is front and centre, and invited the panel to find that limbs b-d of the test set out in the case of Grant are engaged, namely:

b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or,

c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or

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

Mr Choudhury submitted that in light of the panel's findings in this case, if a member of the public were to know the circumstances of this case, they would be calling into

question the reputation of the profession. Mr Choudhury submitted that whilst the panel must take into account the insight and reflection that Ms Hooper has shown in her registrant response bundle as well as the positive testimonials provided, they do not, even taken at their highest, go against misconduct or impairment.

Mr Choudhury submitted that the panel's findings in this case relating to dishonesty, abuse of a position of trust and lack of integrity are aspects of misconduct that are always more difficult to address. He submitted that there is a high risk of repetition in this matter, and in terms of honesty, abuse of a position of trust and lack of integrity, whilst Ms Hooper has said that she is not going to do this again, she does not accept and has still continued to refute, that she was dishonest.

Mr Choudhury invited the panel to make a finding of impairment on the necessary grounds of public interest. He submitted that whilst this is not a case in which there is any suggestion or allegation of clinical failings, everything points back towards that fundamental aspect of providing safe patient care. Mr Choudhury submitted that the amounts of money in this matter were not minimal and were some £47,000. He submitted that some of this money could have been spent better elsewhere and reallocated to other services that the Trust could have provided to patients.

Mr Choudhury submitted that a finding on the ground of public interest is necessary to protect, promote and maintain the health, safety and well-being of the public and patients and to uphold and protect the wider public interests, and is entirely appropriate and warranted in this submission because of the fundamental departure from the standards expected of Ms Hooper. Mr Choudhury submitted that if a finding of impairment was not made out in this case, public confidence in the profession would be seriously undermined.

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, *Grant and Cohen v GMC* [2008] EWHC 581 (Admin).

Decision and reasons on misconduct

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 Ms Hooper'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, Ms Hooper's fitness to practise is currently impaired as a result of that misconduct.

In coming to its decision, the panel had regard 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.*'

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

16 Act without delay if you believe that there is a risk to patient safety or public protection

17 Raise concerns immediately if you believe a person is vulnerable or at risk and needs extra support and protection

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, treating people fairly and without discrimination, bullying or harassment

20.3 be aware at all times of how your behaviour can affect and influence the behaviour of other people

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

21.3 act with honesty and integrity in any financial dealings you have with everyone you have a professional relationship with, including people in your care

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

The panel next considered each of the charges found proved and whether they amounted to misconduct:

Charge 1 (in its entirety)

The panel was of the view that it is essential that employees disclose any kind of personal relationship with someone that is providing a service. Full disclosure allows appointments to be challenged and ensures that objectivity prevails when appointing suppliers.

The panel considered that Ms Hooper would have known the significance and importance of pre-employment checks, especially in relation to safeguarding, given the position of seniority that she was in and the vulnerable patients that she was working

with at the time, as well as ensuring that in terms of the organisation, an effective and proper service was delivered. In relation to this, the panel further considered that Ms Hooper knew that Person A was the kind of person that could present a risk to service users. [PRIVATE]. Despite knowing this, Ms Hooper supported and deliberately undermined the policies and processes in place to prevent such people being appointed. The panel considered that Ms Hooper was fully aware of the critical importance in following the correct processes, particularly in relation to pre-employment checks and their implications for patient safety.

The panel was therefore of the view that Ms Hooper's actions in relation to this charge fell seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Charge 2 (in its entirety)

The panel noted its previous findings in relation to charge 2:

The panel noted that Ms Hooper was in a very senior managerial position at the Trust, and as a result, people would have had certain expectations of her and would have taken those as a given, considering the senior level Ms Hooper held at the Trust. Ms Hooper would have been aware that she would not be subject to the same level of scrutiny as her colleagues due to her seniority. The panel considered that Ms Hooper was able to use the trust placed in her by her colleagues at the Trust and use the knowledge she had about where the budget weaknesses were and how she could bypass and subvert the Trust's policies and procedures. The panel therefore determined that Ms Hooper had abused her position of trust in her senior role in the way that she dealt with her colleagues and staff at the Trust, such as when she was chasing invoices with the cash management department, to ensure that payment was made to Person A.

The panel considered that in light of the implicit trust and confidence between Ms Hooper and her colleagues, her actions were not questioned or scrutinised, and that it would have been expected that Ms Hooper had followed the proper processes correctly and adhered to the highest standards. The panel was therefore of the view that given

Ms Hooper's position, she would have been able to exert significant influence over decisions and subvert the proper processes without being challenged.

The panel considered that using her position of power, Ms Hooper had exploited the success of the previous Sole2Soul project to secure the ongoing commitment for the Physical Wellness Services project with Person A. Ms Hooper capitalised on the success of Sole2Soul and used this to promote the continuation of the project with Physical Wellness Services without scrutiny. This allowed Ms Hooper to bring in Person A without doing the required pre-employment checks.

The panel was therefore of the view that Ms Hooper's actions in relation to this charge fell seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Charges 3a and 3b

The panel considered that Ms Hooper was fully aware of the proper processes and policies that needed to be followed and adhered to, given her seniority, but also admitted in her reflection that she knew what the processes were and had made an active decision not to comply with them. The panel was therefore of the view that Ms Hooper's actions in this regard amounts to deep-seated attitudinal dishonesty and was not a momentary lack of judgement. The panel also considered that Ms Hooper's dishonesty was premeditated, sophisticated and planned, in that it occurred over several months and had a number of factors and components to it. The panel considered that Ms Hooper's dishonesty directly resulted in significant monetary loss to the Trust and gain to Person A. Ms Hooper eventually conceded after an in-depth investigation process had taken place that what she had done was wrong.

The panel was therefore of the view that Ms Hooper's actions in relation to these charges fell seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Charges 4 and 5

The panel considered that Ms Hooper had caused payments to be made to Person A by abusing her position of trust. It took into account that Ms Hooper had followed up and chased payments to be made, at times in an urgent manner, to junior colleagues of a much lower band than her. The panel considered that there was a significant power difference in the hierarchy given where Ms Hooper sat in the Trust at the time, and Ms Hooper used that to apply pressure for payments to be authorised.

The panel was therefore of the view that Ms Hooper's actions in relation to these charges fell seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Charge 6

The panel considered that integrity is a fundamental tenet of the nursing profession where the highest standards are expected of senior professionals by the public. Taking this into account, the panel was of the view that Ms Hooper did not display the highest standards expected of her nursing profession at her level and fell so far below it in that she chose not to follow the proper processes in awarding Person A a contract.

In relation to the issues surrounding pre-employment checks not being completed, the panel considered that it had heard evidence from NMC witnesses, some of whom worked with Ms Hooper, who were shocked at Ms Hooper's unprofessional behaviour. The panel considered that Ms Hooper's colleagues knew the standards expected of a senior professional nurse of a band 8a/8b, and Ms Hooper's behaviour fell way below these standards, occurring over a significant period of time, showing a serious lack of integrity.

The panel was therefore of the view that Ms Hooper's actions in relation to this charge fell seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Charge 7

The panel considered that Ms Hooper had used her position of seniority in order to facilitate payments, fully knowing that she would not have been questioned and would have been able to bypass and subvert processes by using her senior position. Further to this, the panel took into account that Ms Hooper had abused her position of trust not only to avoid scrutiny, but also to expedite the payments by pressurising junior members of staff for payment to be made.

The panel was therefore of the view that Ms Hooper's actions in relation to this charge fell seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Charge 8a

The panel considered that Ms Hooper's conduct was subjectively and objectively dishonest, in that she was the only one who knew that the contract had been awarded without complying with the proper policies and procedures of the Trust.

The panel was therefore of the view that Ms Hooper's actions in relation to this charge fell seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Charges 10, 11 and 12

For the same reasons in respect of charges 4 and 5, the panel was of the view that Ms Hooper's actions in relation to these charges fell seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Charge 14

The panel considered that Ms Hooper was aware of the annual requirement to complete a declaration of interest form. Both on email and during the local investigatory interview she said that she had not filled out this document but then also said that she had

completed one but did not disclose her relationship with Person A. At her level she was fully aware of the requirement to complete one of these forms in a fully transparent manner and she had chosen not to.

The panel was therefore of the view that Ms Hooper's actions in relation to this charge fell seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Charge 15

The panel considered that Ms Hooper had taken multiple serious steps to conceal the close relationship she had with Person A and had repeatedly denied this when asked about it. It noted that Ms Hooper had taken no responsibility for the implications of her sustained dishonesty. The panel was therefore of the view that Ms Hooper's actions in relation to this charge fell seriously short of the conduct and standards expected of a nurse and amounted to misconduct

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 that Ms Hooper'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, Ms Hooper'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 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/ fitness to practise is impaired in the sense that S/He:

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

- b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d) has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

The panel found all four limbs of the test set out in *Grant* engaged both as to the past and the future. It was of the view that vulnerable service users were put at risk as a result of Ms Hooper's misconduct. Ms Hooper's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. The panel found that Ms Hooper had engaged in serious premeditated and prolonged dishonesty. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

Regarding insight, the panel had sight of the following from Ms Hooper's registrant response bundle:

- Ms Hooper's written Trust disciplinary response into the allegations raised against her dated 6 January 2022
- A written reference from Ms Hooper's previous employer (who was aware of the regulatory concerns) for a Clinical Lead role that she undertook between 7 April 2021 to 31 December 2021
- Email correspondence between Ms Hooper and the NMC demonstrating her continued engagement with the NMC investigation
- Ms Hooper's written reflective accounts and response to the allegations
- Positive testimonial from Ms Hooper's previous manager dated October 2022
- Supporting statement from Ms Hooper's previous colleague at the Trust dated January 2021

- Positive testimonial from Ms Hooper's previous colleague at the Trust dated January 2021
- Positive testimonial from Ms Hooper's previous colleague dated January 2020
- A written reference from Ms Hooper's previous employer (who was aware of the regulatory concerns)
- Supporting statement from Ms Hooper's colleague at the Trust

The panel considered that Ms Hooper had provided a number of positive testimonials and supporting statements which attested to her professionalism, clinical competence, being supportive and well-liked by her colleagues. The panel considered that whilst some credit can be afforded to Ms Hooper, some of the testimonials are historic and speak more to Ms Hooper's clinical competence rather than the regulatory concerns in this case.

The panel also had sight of Ms Hooper's written reflections. It considered that, at its highest, Ms Hooper had demonstrated that she had made a number of bad judgement calls but maintained that she believed that *'a good service was delivered to service users and that it was value for money'*. The panel considered that it appears from her reflective statement that Ms Hooper had demonstrated some understanding of how her actions put service users at a risk of harm, namely:

'The consequences of my actions could have meant that vulnerable people were potentially at risk from a predator or worse. [PRIVATE]. At the time I was unable to see the consequences and now know how this could have turned out for the clients.'

The panel considered that despite this, Ms Hooper went on in her reflective piece to provide a detailed statement as to the relationship she had with Person A [PRIVATE] and sought to explain her actions by being in a new role and she suggested she had a lack of supervision. The panel determined that it could find no link whatsoever between a nurse of Ms Hooper's seniority taking on a new role, and/or lack of supervision with the type of misconduct in this case.

The panel was therefore of the view that Ms Hooper has not demonstrated meaningful insight into the implications of her actions for patient safety and the reputation of the nursing profession. The panel noted, with particular concern, that throughout the investigation and currently, that Ms Hooper continues to deny dishonesty. This was not a one-off incidence of dishonesty, but it was sustained in various forms over several months. The panel considered this to be evidential of serious deep-seated attitudinal issues.

Taking all of this into account, the panel was of the view that there is a risk of repetition and 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 a finding of impairment on public interest grounds is also required. It considered that an informed member of the public would be shocked and appalled to learn of Ms Hooper's egregious behaviour. It concluded that public confidence in the profession would therefore be wholly undermined if a finding of impairment were not made in this case and therefore also finds Ms Hooper's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Ms Hooper's fitness to practise is currently impaired.

Sanction

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike Ms Hooper off the register. The effect of this order is that the NMC register will show that Ms Hooper has been struck-off the register.

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC. The panel accepted the advice of the legal assessor.

Submissions on sanction

Mr Choudhury submitted that the NMC is seeking a striking-off order in this case and set out the aggravating and mitigating features.

Mr Choudhury submitted that to take no further action in this case is not suitable because of the nature of the regulatory concerns in this case and the nature of the issues surrounding public protection and public interest and confidence in the profession. He further submitted that a caution order would also not be suitable given that the concerns were not isolated, and it would be inappropriate to mark this behaviour with a caution order.

Mr Choudhury then addressed the panel in relation to a conditions of practice order. He submitted that the starting point is that conditions must be workable, measurable and proportionate. He submitted that the panel has found facts proved in respect of a number of matters of dishonesty, a breach of position of trust and a lack of integrity and it would be difficult to formulate conditions of practice that address the public protection and public interest concerns in this case, which the panel has found to be in relation to deep seated attitudinal concerns.

Mr Choudhury submitted that whilst a suspension order may theoretically be possible, this was a case where there was not a single instance of misconduct but rather a sustained period of repeated dishonesty. Mr Choudhury submitted that the dishonesty in this case was not a one-off instance, but premediated, systematic and longstanding. He submitted that the panel should therefore consider the NMC Guidance on seriousness and dishonesty and invited the panel to consider that some behaviours are particularly serious as they suggest that there may be a risk to people receiving care. Mr Choudhury submitted that it must be remembered that Ms Hooper allowed Person A, [PRIVATE], to work with and have access to vulnerable service users and their care

records. He submitted that it is the NMC's case that this demonstrates a shocking attitude to patient safety.

Mr Choudhury submitted that a striking-off order is the only sanction which would be sufficient to protect patients, members of the public and maintain professional standards. He submitted that a suspension order would not be sufficient to cover the seriousness of the misconduct, given the serious and sustained dishonesty in this case, and that only a striking-off order would be appropriate to protect the public from the risk of harm identified and to maintain public confidence in the nursing profession and the NMC as a regulator.

Mr Choudhury set out that part of the panel's power in terms of sanction is sending out a strong message to the nursing profession. He submitted that in this case, Ms Hooper had multiple opportunities to stop what she was doing and seek guidance and support, notwithstanding the quite considerable personal and emotional problems that she was going through. He submitted that Ms Hooper was in a very senior position with a high level of responsibility, and the message that she was sending to those that she worked with, especially junior colleagues, was not the correct one.

Decision and reasons on sanction

Having found Ms Hooper'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:

- Ms Hooper's dishonesty in this case was particularly serious, premeditated and sophisticated and occurred over a period of several months. Despite having

opportunities to stop what she was doing and seek guidance and support, Ms Hooper continued to be dishonest in her conduct.

- Ms Hooper's dishonesty was at the heart of the charges found proved against her, and as a result of her dishonesty there was significant financial loss to the Trust
- Ms Hooper has demonstrated very limited insight into the regulatory concerns and has denied dishonesty on a number of occasions and until this date
- Ms Hooper was an extremely experienced band 8a/8b senior member of staff at the trust. She was a leader to others and would have been expected to be practising at the highest level and leading by example, which she failed to do.
- Ms Hooper allowed Person A, [PRIVATE], to work with and have access to vulnerable service users and their care records, which demonstrates a shocking attitude to patient safety.

The panel also took into account the following mitigating features:

- Ms Hooper made a number of partial admissions within her registrant response bundle
- Ms Hooper has expressed some remorse and shown very limited insight
- [PRIVATE]

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that, given the public protection identified, an order that does not restrict Ms Hooper's practice would not be appropriate in the circumstances 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 Ms Hooper'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 Ms Hooper's 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 Ms Hooper's registration would be a sufficient and appropriate response. The panel was of the view that the misconduct and the serious, premeditated and sophisticated dishonesty identified in this case was not something that can be addressed through retraining. The panel considered this to be evidential of deep-seated attitudinal issues and therefore this was not something that is workable or practicable to address via conditions of practice. The panel also considered this misconduct to be so serious that conditions of practice would not reflect the level of misconduct in this case. 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 Ms Hooper'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;*
- ...
- ...

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. It was not a single instance of misconduct

but multiple incidences over a sustained period of time. In addition, due to the panel's concerns over deep seated attitudinal issues and limited insight by Ms Hooper, the panel considered there to be a high risk of repetition. For these reasons, the panel determined that a suspension order would not be suitable in this case.

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 determined that Ms Hooper's actions were significant departures from the standards expected of a registered nurse and that this degree of unprofessionalism was fundamentally incompatible with her remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Ms Hooper's actions were of the utmost seriousness and that not only did she put vulnerable people at risk of harm, but she adversely affected trust and confidence in the nursing profession. To allow Ms Hooper to continue practising would wholly 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 determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of Ms Hooper's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct herself, the panel has concluded that nothing short of this would be sufficient in this case.

The panel considered that this order was necessary to protect the public and 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.

This will be confirmed to Ms Hooper in writing.

That concludes this determination.

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Ms Hooper's own interests until the striking-off sanction takes effect.

Submissions on interim order

The panel took account of the submissions made by Mr Choudhury. He submitted that in light of the panel's decision to impose a striking-off order in this case, it is necessary for the protection of the public and is otherwise in the public interest for an interim suspension order to be imposed to cover the 28-day appeal period.

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

Decision and reasons on interim order

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

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

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

That concludes this determination.