

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

**Substantive Hearing
Monday, 7 April 2025 – Thursday, 17 April 2025
Monday, 27 October 2025 – Thursday, 30 October 2025
Monday, 10 November 2025 – Wednesday 12 November 2025**

Virtual Hearing

Name of Registrant:	Natalie Simmons
NMC PIN:	12G2430E
Part(s) of the register:	Registered Nurse – Adult RNA – 22 September 2012
Relevant Location:	Portsmouth
Type of case:	Misconduct
Panel members:	Shaun Donnellan (Chair, Lay member) Jennifer Childs (Registrant member) Jan Bilton (Lay member)
Legal Assessor:	John Bassett
Hearings Coordinator:	Hamizah Sukiman
Nursing and Midwifery Council:	Represented by Beverley Da Costa, Case Presenter
Miss Simmons:	Present and represented by Sian Beaven, instructed by Royal College of Nursing (RCN) Not present but represented by Sian Beaven, instructed by Royal College of Nursing (RCN) (29 October 2025 only)
No case to answer application:	Rejected
Facts proved:	Charges 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13
Facts not proved:	None

Fitness to practise:

Impaired

Sanction:

Striking off order

Interim order:

Interim suspension order (18 months)

Details of charge (as amended)

That you, a registered nurse:

- 1) Between 11 June 2020 and 14 July 2020 removed Fentanyl and/or Morphine Sulphate from hospital stock for your own use on one or more occasions.
- 2) Your conduct at Charge 1 above was dishonest in that you knew the aforesaid medication did not belong to you.
- 3) On one or more occasions between 11 June 2020 and 14 July 2020 incorrectly recorded in the controlled drug registers for the Recovery area, the name or names of persons who were not patients in the Recovery area on the date you made the entry, as having been administered Fentanyl or Morphine Sulphate.
- 4) On 11 June 2020 incorrectly recorded on one or more occasions that Patient A had been administered Fentanyl when they had been discharged on 10 June 2020.
- 5) On 11 June 2020 incorrectly recorded that Patient B had been administered Fentanyl when they had been discharged on 10 June 2020.
- 6) On 11 June 2020 incorrectly recorded that Patient C had been administered Fentanyl when it was not prescribed for them on that date.
- 7) On 30 June 2020 incorrectly recorded that Patient D had been administered Fentanyl when they were deceased.
- 8) On 12 July 2020 incorrectly recorded that Patient E had been administered Fentanyl when it was not prescribed for them on that date.
- 9) Your conduct at one or more of charges 3 to 8 above was dishonest in that you knew that none of the persons you recorded as patients had been

genuinely prescribed Fentanyl and/or Morphine Sulphate and your conduct was designed to conceal your removal of medication.

10) On 12 July 2020 you asked Colleague 1, a health care assistant, to countersign the entry or entries you made in the controlled drugs register for Patient F.

11) Your conduct at charge 10 was dishonest in that you knew that Colleague 1 had not witnessed the removal and/or administration of controlled medication for Patient F.

12) On 12 July 2020 you wrote Colleague 1's initials in the controlled drugs register for Patient E.

13) Your conduct at charge 12 was dishonest in that you knew that Colleague 1 had not witnessed the removal and/or administration of medication for Patient E and your conduct was designed to conceal your removal of medication.

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

Background

You have been a registered nurse since 2012. The charges arose whilst you were employed as a registered nurse in the Recovery Department at Queen Alexandra Hospital ('the Hospital') by Portsmouth Hospitals University NHS Trust ('the Trust').

Between 17 June 2020 and 30 June 2020, blood splatters and controlled drug administration equipment (drugs paraphernalia) were found in the female E level staff toilets at the Hospital. The Trust conducted periodic checks in the toilets for staff members who took a prolonged period of time. These matters (i.e: the possible illegal use and/or consumption by someone of controlled drugs in the Hospital) are not the subject of the NMC's charges in these proceedings.

However, as a result of this discovery in the staff toilets, the Trust conducted its own investigation and found suspicious entries were made in respect to Fentanyl in the controlled drugs register. It is alleged that entries were made in relation to the administration of Fentanyl to patients who were not prescribed Fentanyl, patients who had been discharged from the Recovery Department or patients who were deceased.

Following an initial investigation carried out by Witness 1 and Ms 2, on 1 July 2020, Witness 2, a Counter Fraud Specialist, conducted an investigation into the fraudulent entries within the controlled drugs register. On 24 July 2020, Witness 2 completed her report, which strongly implicated you as being responsible for the fraudulent controlled drugs register entries.

You cooperated with the local investigation, and you denied the allegations against you. The local investigation concluded that you were responsible for stealing controlled drugs from the Hospital between June and August 2020 and falsifying records to cover up the removal of the controlled drugs. The Trust further suggested that you had self-administered controlled drugs in the toilets. The Trust suspended you on 22 July 2020, and you were dismissed following the conclusion of the local investigation on 18 January 2023.

The panel heard that you were the subject of a criminal investigation as a consequence of the matters giving rise to the charges in this case. The criminal investigation has now concluded, and the police took no further action. You have not been charged with or convicted of any crime.

Decision and reasons on application for Witness 7's evidence to be heard partly in private

Prior to Witness 7's oral evidence, Ms Beaven, on your behalf, made an application for Witness 7's evidence to be heard partly in private on the basis that the evidence may involve references to a third-party's health. She invited the panel to hear those matters in private, as and when they arise. The application was made pursuant to

Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended ('the Rules').

Ms Da Costa, on behalf of the Nursing and Midwifery Council ('NMC'), did not oppose the application.

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 considered submissions from both Ms Beaven and Ms Da Costa as well as the advice from the legal assessor. The panel determined that it would enter into private session as and when issues surrounding the health of third-parties are raised.

The hearing went part-heard on 17 April 2025.

Decision and reasons on application to admit Witness 10's witness statement and accompanying exhibits into evidence

The hearing resumed on 27 October 2025.

At the outset of the resuming hearing, Ms Da Costa made an application to admit the witness statement and accompanying exhibits of Witness 10 into evidence. This application was made pursuant to Rule 31 of the Rules.

Ms Da Costa reminded the panel that, in April 2025, Witness 10 had begun her evidence but did not get an opportunity to finish it before the hearing went part-heard due to matters out of her control. This matter was then due to resume in July 2025, and Ms Da Costa referred the panel to an email correspondence from Witness 10, dated 30 June 2025, asking the NMC to confirm whether the hearing was going ahead. The hearing did not resume in July 2025 due to unforeseen circumstances (unrelated to Witness 10), and the next sitting commenced on 27 October 2025.

Ms Da Costa referred the panel to the correspondence from Witness 10, informing the NMC that she was migrating to Australia at the end of July. She drew the panel's attention to the attempts made by the NMC between July to October 2025 to secure Witness 10's attendance, including offering financial compensation for lost earnings (when Witness 10 raised the issue of her working on the days recommended) as well as offering to speak to Witness 10's employers.

The panel had sight of Witness 10's email to the NMC, dated 15 October 2025, which stated:

'I work in a private institution where staffing is crucial. Additionally, my husband will be on a night shift that day (6:45 pm–7:00 am). [PRIVATE], and I wouldn't be comfortable [PRIVATE] while I attend the private video call.

I truly wish to assist, but unfortunately, due to our current circumstances—including the time difference [PRIVATE] and work situation—I won't be able to participate.

I hope my written statement can be of help, and I sincerely appreciate your understanding.

I also hope I have already demonstrated my support and willingness to assist the NMC in this investigation through my previous participation in the hearing and the occasion when I accommodated your requests to be present.'

Ms Da Costa submitted that, at this stage, the NMC continued to attempt to engage Witness 10 by reassuring her that the oral evidence would likely take only three hours, as opposed to the initial estimation of two days. The NMC asked whether [PRIVATE], to which Witness 10 responded:

'[PRIVATE] I do really hope you understand my circumstance, it's not easy and if I could, I would attend the hearing. I have already submitted myself and

committed to assisting you all with this investigation in the past years. I sincerely hope you understand and consider my situation.'

In respect of relevance, Ms Da Costa submitted that Witness 10's evidence relates to your conduct surrounding the controlled drugs register and an alleged incident where Witness 10 saw you removed unspecified medication from the controlled drugs cupboard. She accepted that Witness 10 did not speak to any particular charge, but she submitted that Witness 10's evidence is nonetheless relevant as it comments on your general demeanour around controlled drugs.

In relation to fairness, Ms Da Costa accepted that Witness 10 would not be cross-examined, and her evidence would not be tested by Ms Beaven. However, she submitted that Witness 10's evidence does not directly relate to any of the charges, and is more circumstantial in nature. She further submitted that, taken at its highest, her evidence may relate to charge 1, but there is evidence from other witnesses in relation to that charge. Ms Da Costa submitted that Witness 10 is not the sole and decisive evidence in relation to any of the charges.

Ms Da Costa further submitted that Witness 10's non-attendance is through no fault of the NMC, and that all possible steps have been taken to secure the witness. She informed the panel that the only step the NMC has not taken is to seek a witness summons, but this would not secure Witness 10's attendance, as she was outside the jurisdiction. She submitted that the NMC has offered to reimburse Witness 10's loss of earnings and to speak to Witness 10's employer on her behalf to secure her attendance, but there are unfortunate personal circumstances that have prevented Witness 10 from attending.

Ms Da Costa further submitted that Witness 10's [PRIVATE] as well as the time difference between Australia and the United Kingdom are good and cogent reasons for her non-attendance. She submitted that Witness 10 has engaged thus far, up until there has been a change in her personal circumstances. She reminded the panel that Witness 10 followed up with the NMC prior to the scheduled July 2025 resuming dates, which indicated that she would have joined the hearing had it proceeded at that time. Ms Da Costa submitted that the delay in resuming the

hearing (and consequently preventing Witness 10 from attending), whilst it is not any party's fault, should be considered.

Ms Beaven acknowledged that Witness 10's evidence may be relevant, albeit the evidence is circumstantial and does not speak to any particular charge.

Ms Beaven accepted that Witness 10's evidence is not sole and decisive to any charge, but she submitted that it provides important evidence in relation to your alleged conduct with no opportunity to challenge it or present an alternative account. Whilst there is no suggestion Witness 10 would fabricate her evidence, Ms Beaven submitted that Witness 10's opinions on why your alleged actions remained in her memory or why she subsequently raised this to management can only be properly explored through cross-examination. She further submitted that, by admitting Witness 10's witness statement, there would be no opportunity to challenge any inconsistencies in the evidence.

Ms Beaven submitted that the allegations are of the utmost seriousness, relating to a widescale campaign of dishonesty and misuse of controlled drugs which, if proved, could lead to a destruction of your career and reputation.

Ms Beaven further submitted that there is no good reason for Witness 10's non-attendance. She submitted that Witness 10 has dialled in from a foreign jurisdiction before, and the NMC's suggestion of a three-hour session beginning at 18:00 Australian time (09:00 UK time) would not be overly antisocial for Witness 10.

She further submitted that Witness 10 provides a changing reason within her correspondence for her non-attendance. She submitted that Witness 10 knew, in April 2025, that her evidence had not concluded and rightfully checked with the NMC ahead of July 2025, where she was told that the hearing would not resume. Ms Beaven drew the panel's attention to the correspondence from Witness 10 at this stage, who informed the NMC that she was migrating to Australia, but makes no indication that she does not wish to attend the hearing from Australia or that the time difference would cause issues. When the NMC contacted Witness 10 again, Ms Beaven submitted that Witness 10 gave a work-related concern, to which the NMC

offered to reimburse her, speak to her employer and reminded her of her duty to cooperate as a registered nurse. Following this, she raised [PRIVATE]. Ms Beaven submitted that Witness 10's correspondence indicated that her husband would commence work at 18:45, and that she would be working until 20:30 (if she was not giving evidence). Therefore, [PRIVATE], and if she chose to give evidence, her evidence would run between 18:00 to 21:00. Ms Beaven submitted that [PRIVATE].

Ms Beaven submitted that no criticism could be made of the NMC's efforts to secure Witness 10's attendance, and that the NMC has attempted to resolve all the issues raised by Witness 10, until it reached the point where the issue was of a personal nature and could not be resolved.

However, Ms Beaven submitted that criticism can be made of the NMC for not providing notice to your representatives at the RCN that Witness 10 was reluctant.

Ms Beaven submitted that, taking all of this into account, Witness 10's witness statement should not be admitted into evidence, given the seriousness of the charges you are facing and the lack of good reason for Witness 10's non-attendance.

In response to a question asked by the panel as to what detriment has come to you by the NMC not informing you or your representatives prior to the hearing, Ms Beaven submitted that it is a detriment of courtesy and preparation of the case before the first resuming day. She accepted that neither you nor your representatives would likely be able to secure Witness 10's attendance. She submitted that the NMC could have informed your representatives at the RCN, and in the event that Witness 10 attended, then there would be no detriment to either party. However, if Witness 10 had not attended, an early notification would have allowed the RCN a greater opportunity for preparing submissions and provide a degree of support for you, as you currently appear to be the last person to be aware of developments in your own case.

Ms Da Costa, in response to Ms Beaven's submissions, submitted that the NMC was attempting to secure Witness 10's attendance as late as Friday, 24 October 2025,

when the Hearings Coordinator contacted Witness 10 and invited her to join the hearing. She further submitted that Witness 10's non-attendance was only crystallised then, one working day before this hearing was set to resume. Whilst this was regrettable, she submitted that there was no detriment to you by the NMC not notifying your representatives that attempts were being made to secure Witness 10's attendance.

The panel accepted the advice of the legal assessor. He referred the panel to the NMC guidance, '*Evidence*' (DMA-6). He advised the panel that so far as it is '*fair and relevant*', a panel may accept evidence in a range of forms and circumstances, irrespective of its admissibility in civil proceedings, pursuant to Rule 31 of the Rules.

In reaching its decision, the panel also considered the seven principles for its consideration, pursuant to *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 (Admin), which are:

- Whether the statement is the sole or decisive evidence in support of the charges;
- The nature and extent of the challenge to the contents of the statement;
- Whether there was any suggestion that the witness had reason to fabricate their allegation;
- The seriousness of the charge, taking into account the impact which adverse findings might have on the registrant's career;
- Whether there was a good reason for the non-attendance of the witness;
- Whether the regulator had taken reasonable steps to secure the witness's attendance; and
- Whether the registrant did not have prior notice that the witness statement would be read.

Prior to reaching its decision, the panel reminded itself that its decision in respect of this application should not be regarded as a routine matter.

The panel first considered whether Witness 10's witness statement is relevant. The panel took into account that Witness 10 does not provide evidence in relation to any particular charge. However, the panel was satisfied that the evidence is relevant, as it related to your alleged conduct around the controlled drugs register as well as one potential allegation of you misappropriating an unspecified tablet from the controlled drugs cupboard (albeit this is not a charge in these proceedings).

It then moved on to consider whether it would be fair to admit Witness 10's witness statement. It considered the above *Thorneycroft* factors in turn.

On whether the statement is the sole or decisive evidence, the panel took into account that both Ms Da Costa and Ms Beaven agreed that Witness 10's evidence is not the sole or decisive evidence in respect of any of the charges. The panel was satisfied that Witness 10's evidence was in relation to your alleged demeanour, as opposed to your conduct in any particular charge. Accordingly, the panel determined that Witness 10's evidence is not sole or decisive in relation to any of the charges.

In respect of the nature and extent of the challenge to the contents of the statement, the panel took into account that you do not accept Witness 10's evidence. The panel acknowledged that this challenge is consistent with your defence.

On whether there was any suggestion that Witness 10 had reason to fabricate her allegation, the panel considered that there is no suggestion of fabrication. The panel took into account that Witness 10 did begin to give evidence in April 2025 and appeared willing to do so in July 2025.

The panel next considered the seriousness of the charges. The panel accepted Ms Beaven's submissions that the charges are of the utmost seriousness. The panel considered that the NMC is seeking a striking-off order if your fitness to practise is found impaired.

On whether there was a good reason for Witness 1's non-attendance, the panel considered that Witness 10 did attend the hearing in April 2025 (from a different jurisdiction) and appeared to want to attend in July 2025. The panel noted that, in

April 2025, Witness 10's evidence was delayed (for reasons unrelated to her) despite the large time difference between the UK and the Philippines (where she was giving evidence from at the time), and the panel considered that Witness 10 may anticipate this to occur in this sitting.

The panel also took into account that, since then, Witness 10 has moved to Australia and has [PRIVATE]. The panel noted Ms Beaven's submissions [PRIVATE], but the panel accepted Witness 10's considerations [PRIVATE]. Given Witness 10's continued engagement with the NMC, the panel was satisfied that Witness 10 [PRIVATE] has a good reason for her non-attendance.

The panel next considered whether the NMC had taken reasonable steps to secure Witness 10's attendance, and the panel determined that the NMC had done so. The panel considered that the NMC has offered Witness 10 financial reimbursement for any shifts which she may have missed, offered to speak to Witness 10's employer on her behalf and reassured her that her evidence would likely only take three hours.

The panel considered that the NMC did not seek to secure a witness summons, but that Witness 10 was outside of the jurisdiction in any event. The panel was satisfied that the NMC had taken every reasonable step to secure Witness 10's attendance.

On whether you or your representatives had prior notice that the witness statement would be read, the panel determined that no prior notice was given to you or your representatives at the RCN. However, the panel considered that the lack of notice did not appear to be of any detriment to you. The panel also considered that the NMC continued to attempt to secure Witness 10's attendance up until October 2025, and her non-attendance was only confirmed to the NMC on 23 October 2025 (one working day prior to the commencement of this hearing).

Taking all the above into account, the panel determined that it would be fair and relevant to accept into evidence the witness statement and accompanying exhibits of Witness 10.

The panel reminded itself that it would give what it deemed appropriate weight to this evidence during its decision on facts, once the panel had heard and evaluated all the evidence before it.

Decision and reasons on amending Charge 10

At the conclusion of the NMC's case, the panel, of its own volition, considered amending the wording of charge 10. This amendment was considered in light of the evidence the panel has before it in relation to the Trust's policy on whether non-qualified healthcare professionals could countersign the controlled drugs register.

The panel noted that the Trust's policy on the administration of controlled drugs stated:

'Two people (preferably two authorised staff) must complete the entire procedure [...]

Most acute PHT ward areas should have at least two Registered Nurses/ Midwives available to ensure the witness is also an authorised person. If this is not possible the witness should be a Nursing Associate, Assistant Practitioner (Nursing) or an alternative healthcare professional e.g. pharmacist. This scenario may apply outside of the acute Trust setting, or in wards/departments where there is no second registered nurse or authorised member of staff. In an emergency where there is not a registered healthcare professional or assistant practitioner (nursing) available a healthcare Support Worker may witness the administration but in this circumstance a safety learning event report should be completed and documented within the Datix system as an 'event affecting patient' and event type as 'medication'.'

Based on the above, the proposed amendment is as follows:

"That you, a registered nurse:

10)On 12 July 2020 you asked Colleague 1, a health care assistant, to countersign **the entry or entries you made in** the controlled drugs register for Patient F. ~~when you knew that she was not qualified to countersign the said register.~~

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

The panel noted that this would not impact on charge 11 (which was in relation in charge 10) as the “mischief” of the charge remains that Colleague 1 was asked to countersign the entries you made when she should not do so, which would be dishonest.

The panel invited submissions from both Ms Da Costa and Ms Beaven.

Ms Da Costa acknowledged the panel’s concern in relation to the evidence before it suggesting that Colleague 1 could, as a healthcare assistant, countersign the controlled drugs register in some circumstances. However, she opposed the panel’s recommendation, and she submitted that the panel’s suggestion would remove the element of misconduct in your alleged wrongdoing from the charge.

In light of this, Ms Da Costa proposed the following amendment, which she submitted would accurately reflect the evidence before the panel:

‘That you, a registered nurse:

10)On 12 July 2020 you asked Colleague 1, a health care assistant, to countersign **the entry or entries you made in** the controlled drugs register for Patient F **in the absence an emergency as required by Trust Policy.** ~~when you knew that she was not qualified to countersign the said register.~~

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

Ms Beaven submitted that both suggested amendments would result in injustice to you, given the amendments are sought at a late stage in the proceedings and following the closure of the NMC case.

Ms Beaven submitted that the burden of proof remains on the NMC, and the alleged wrongdoing, per the charge, was that you asked Colleague 1 to countersign the controlled drugs register when she was not qualified to do so. She submitted that you have responded to this charge and conducted your case based on this nuance (i.e: whether Colleague 1 was suitably qualified) and Ms Da Costa's proposed amendment would materially alter the nuance of the charge, alleging instead that there was not an emergency which would allow Colleague 1 to countersign. Ms Beaven submitted that whether there was an emergency or not, this was not put to any of the NMC witnesses in cross-examination, and to allow this amendment would cause prejudice to you, as it changes the inflection in the case which the NMC has put to you.

Ms Beaven further submitted that, in respect of amending the charge per the panel's recommendation, you have provided a statement of evidence which was in line with the charges you thought you were answering to. Ms Beaven acknowledged that a panel may amend at any stage in the proceedings prior to its decision on facts, but she submitted that there is more prejudice caused to you if the amendments are made later in the proceedings. She reminded the panel of Ms Da Costa's submissions that, in the panel's recommended amendment, there would be no misconduct element to the charge. Ms Beaven submitted that this implies the crux of the charge relates to Colleague 1's permission to sign the controlled drugs register, which would be removed in the panel's proposed amendments.

The panel accepted the advice of the legal assessor in relation to its powers within Rule 28(1) of the Rules.

The panel reminded itself that, pursuant to the decision in, and principles derived from, *Professional Standards Authority v (1) Nursing and Midwifery Council & (2) Jozi* [2015] EWHC 764 (Admin), a disciplinary tribunal has a duty to ensure that

issues of potential misconduct which are raised in the evidence before it are properly considered, and that the charges adequately reflect the real mischief of the case.

The panel first considered Ms Da Costa's proposed amendment.

The panel accepted Ms Beaven's submissions in respect of a change of nuance in the charge. The panel considered that this proposed amendment would introduce a new element of your alleged wrongdoing (i.e: whether there was an emergency) which was not put to the witnesses in their evidence. The panel determined that this amendment would therefore cause prejudice to you if it was accepted.

The panel next considered its own proposed amendment.

The panel was of the view that the amendment it recommended to the parties seeks to more accurately reflect the evidence before it. The panel was satisfied that, as this amendment is not substantive in nature (namely, the "mischief" of the charge remains unchanged, in that it relates to whether you asked Colleague 1 to countersign the controlled drugs register), no prejudice or injustice would be caused to either party by the proposed amendment being made. The panel considered that this does not materially alter your defence to the charge, namely that you never asked Colleague 1 to countersign the controlled drugs register and that Colleague 1 volunteered to do so (rather than disputing whether she was qualified to do so). The panel was therefore satisfied that your case has been put before the witnesses in their cross-examination.

Further, the panel considered that Ms Beaven has indicated that you will be giving evidence on your own behalf. Assuming that to be the case, you will have the opportunity to robustly answer to this charge when you are under oath.

The panel noted Ms Beaven's submissions in respect of the lateness of this amendment. The panel accepted that this amendment has been proposed at the closure of the NMC case, however it considered that the information in respect of healthcare assistants being qualified to countersign in some circumstances was raised in witnesses' cross-examination. The hearing then went part heard in April

2025. The panel determined that these proposals were made as expeditiously as the hearing permitted, in light of the timing challenges posed thus far.

Taking all of the above, the panel was therefore satisfied that it was appropriate to make the amendment to ensure the evidence before it is reflected in the charge.

Decision and reasons on application of no case to answer

At the closure of the NMC's case, Ms Beaven made an application that there is no case to answer in respect of charges 5, 6, 12 and 13. This application was made under Rule 24(7). She provided the panel with written submissions.

Alongside the written submissions, Ms Beaven referred the panel to the decision in, and principles derived from, the case of *R v Galbraith* [1981] 1 WLR 1039. She submitted that the evidence in relation to these charges is of a tenuous character, where, taken at its highest, is such that this panel properly directed could not properly find the facts proved, per limb 2 of *Galbraith*. Ms Beaven submitted that the tenuous nature of the evidence before this panel is factual in nature, and does not relate to the credibility of the witnesses.

In respect of charges 5 and 6, Ms Beaven reminded the panel of Witness 9's evidence, where he confirmed that neither Patient B nor Patient C featured on the list of entries he was requested to analyse as part of his handwriting analysis. In respect of Patient E (charges 12 and 13), she submitted that Witness 9's evidence was that the handwriting was inconclusive, and he could not conclude that it was your handwriting.

Ms Beaven submitted that, in the absence of Witness 9's evidence or any other eyewitness who saw you make these specific entries, the evidence before this panel in respect of all four charges is in relation to opportunity only, rather than any direct evidence linking you to the allegations. She reminded the panel of Witness 6, who told the panel that you fell under suspicion because you had the most opportunity at the relevant times, but conceded that others may have had the same opportunity.

Ms Beaven submitted that there is an evidential gap between the circumstantial evidence before this panel and any direct evidence which would support the charges. She reminded the panel that the NMC bears the burden of proof in each specific charge, and the evidence against you, in the absence of Witness 9's handwriting expert evidence, rests solely on when you were on shift. However, other practitioners would also be on the same shifts. She submitted that, in light of this, the evidence in respect of charges 5, 6, 12 and 13 were too tenuous, and invited the panel to find that you have no case to answer in respect of these charges.

Ms Da Costa submitted that there is a case to answer in respect to all the charges. In respect of charges 5 and 6, Ms Da Costa conceded that Witness 9 did not undertake the analysis in respect of Patient B and Patient C. However, she submitted that the panel has other evidence to support this charge. Alongside Witness 6's evidence, Ms Da Costa submitted that the panel also have Witness 2's witness statement and oral evidence. She reminded the panel that Witness 2, in the course of her investigation, stated there were at least 50 practitioners who were investigated, and she concluded it was you following her investigation. Ms Da Costa further submitted that both Witness 2 and Witness 6's evidence was not tenuous, and, taken at its highest, the panel could find the facts proved.

In relation to charges 12 and 13, Ms Da Costa acknowledged that Witness 9's findings were inconclusive in relation to Patient E's entries, and there were no eyewitnesses in respect of this entry. However, Ms Da Costa submitted that you were looking after two patients on that shift (Patient E and another patient), whereby the entry on the other patient was yours. She submitted that there was a window of opportunity for you to therefore make this entry on Patient E's records.

In response to Ms Da Costa's submissions, Ms Beaven submitted that Witness 2's evidence is also circumstantial, and there is no direct evidence supporting these charges.

The panel accepted the advice of the legal assessor. He referred the panel to the NMC guidance, '*Evidence*' (DMA-6), as well as to the decision in, and principles derived from, the case of *Galbraith*. The legal assessor also advised the panel, and Ms Da Costa and Ms Beaven agreed, that, should it determine that there was a case to answer on any of the charges in respect of which Ms Beaven had made her submissions, it need only so state. Only if it accepted Ms Beaven's submission in relation to one or more of the charges should it state its reasons for the acceptance of that/those submissions.

In reaching its decision, the panel has made an initial assessment of all the evidence that had been presented to it at this stage. The panel was solely considering whether sufficient evidence had been presented such that it could find the facts proved, and whether you had a case to answer. The panel reminded itself that it was not making any findings of fact, at this stage.

The panel considered the NMC Guidance, '*Evidence*' (DMA-6) as well as to the principles derived from *Galbraith*. The guidance stated:

'There will be no case for a nurse, midwife or nursing associate to answer where, at the close of our case, there is:

- 1. no evidence*
- 2. some evidence, but evidence which, when taken at its highest, could not properly result in a fact being found proved against the nurse, midwife or nursing associate, or the nurse, midwife or nursing associate's fitness to practise being found to be impaired.*

The question of whether there is a case to answer turns entirely on our evidence. Evidence which might form part of the nurse, midwife or nursing associate's case will not be taken into account.'

The panel noted the following from *Galbraith*:

‘(1) If there is no evidence that the crime alleged has been committed by the defendant there is no difficulty - the judge will stop the case.

(2) The difficulty arises where there is some evidence but it is of a tenuous character, for example, because of inherent weakness or vagueness or because it is inconsistent with other evidence.

a) Where the judge concludes that the prosecution evidence, taken at its highest, is such that a jury properly directed could not properly convict on it, it is his duty, on a submission being made, to stop the case.

b) Where however the prosecution evidence is such that its strength or weakness depends on the view to be taken of a witness's reliability, or other matters which are generally speaking within the province of the jury and where on one possible view of the facts there is evidence on which the jury could properly come to the conclusion that the defendant is guilty, then the judge should allow the matter to be tried by the jury.’

The panel noted that Ms Beaven’s application is in respect of limb 2 of *Galbraith*. However, the panel nonetheless considered whether limb 1 is engaged.

Taking all of the information before it into account, the panel was satisfied that there is evidence before it in respect of all four charges upon which properly directed it might find them proved. In the circumstances, the panel rejects Ms Beaven’s submissions.

Decision and reasons on application to adjourn until 09:30 on Day 13

During her evidence under affirmation on Day 11 (28 October 2025), Miss Simmons referred to a document which was sent to her by the Trust which she suggested contained information of all the other members of staff who were considered in the investigation. She alleged that there were others who were suspected, but only her entries were brought forward as suspicious to the NMC.

In light of this, the panel invited Ms Beaven to discuss this matter further with Miss Simmons, and for her to provide a copy of the document referred to, to Ms Beaven.

On Day 12 of the hearing (29 October 2025), Miss Simmons was not in attendance at the hearing.

Ms Beaven informed the panel that she has been unable to ascertain a readable copy of the document referred to in Miss Simmons' oral evidence, and that she informed Ms Beaven that [PRIVATE]. Ms Beaven informed the panel that she has been unable to get in contact with Miss Simmons, and she does not have instructions to proceed. She invited the panel to adjourn the hearing until Day 13 (30 October 2025) in light of both these ongoing issues.

In order to ascertain further information in respect of the document, the panel posed the following questions to Ms Beaven:

1. Where has the document originated from (i.e: was it the Trust)?
2. When did Miss Simmons come into possession of the document?
3. Has this document been provided to the RCN, and if so, has this document been disclosed to the NMC?

Ms Da Costa reminded the panel that this matter has been ongoing for six years (including the time it took to investigate) and, if there are further delays, the remaining days may not be sufficient for this matter to conclude. She informed the panel that the next available listing date may be in August or September 2026. In respect of adjourning due to [PRIVATE], Ms Da Costa submitted that this is a matter for the panel, but the panel may wish to seek [PRIVATE] before making a decision.

The panel allowed Ms Beaven time to attempt to speak to Miss Simmons and obtain further instructions.

Following a short adjournment until 13:00, Ms Beaven informed the panel that the RCN is attempting to courier this document, for it to be scanned at an RCN office

and subsequently emailed to her. At this stage, no document has yet been received by Ms Beaven, and consequently, she was unable to comment on the nature or content of the document. She further informed the panel that [PRIVATE] she has therefore been unable to obtain instructions. Ms Beaven requested an adjournment until Day 13 in the hope [PRIVATE] and that the defence position on the document is clearer. When asked by the panel, she accepted that there is no guarantee that either of the scenarios will happen.

In response to a question asked by the legal assessor, Ms Beaven confirmed that closing submissions may be made in Miss Simmons' absence, if required.

Ms Da Costa indicated to the panel that the NMC will be objecting to any Rule 31 application which may be made in respect of the document. She submitted that this matter has been ongoing for six years, and that, by Miss Simmons' own account, she has been in possession of this document for a number of years. Ms Da Costa reminded the panel that witnesses have concluded their evidence, and that the panel's primary consideration should be the specific charges brought by the NMC against Miss Simmons (as opposed to the possibility of others being suspects), with evidence the NMC suggest supports the charges. She submitted that it is in the public interest for this hearing to proceed, and for this matter to be dealt with expeditiously.

The panel accepted the advice of the legal assessor.

In reaching its decision, the panel considered the submissions from both Ms Beaven and Ms Da Costa, as well as the legal advice it received. The panel bore in mind fairness to both Miss Simmons and the NMC, and it considered whether it would be in the interest of justice to grant a one-day adjournment.

The panel took into account that a courier has been arranged by the RCN to obtain the document. The panel considered that, whilst a plan has been put in place by the RCN to secure the document, Ms Beaven was unable to comment on a time estimate as to when the courier would reach Miss Simmons, or when the documents would subsequently reach the RCN. The panel also considered that, at this stage, it

does not know the content of the document, and whether it would be relevant to these charges. The panel noted that the existence of this document was first mentioned in this hearing during Miss Simmons' oral evidence.

[PRIVATE].

The panel further considered that this hearing went part-heard in April 2025, and that only five working days remain in the listing. The panel took into account that there is a public interest in the expeditious disposal of this case, particularly given the delays thus far, and that Ms Beaven indicated that closing submissions may be made in Miss Simmons' absence, if required.

Taking all the above into account, the panel determined that it would be fair and in the interest of justice to adjourn the proceedings until 09:30 on Day 13. The panel acknowledged that this would delay proceedings further, but it was of the view that this should award Miss Simmons and Ms Beaven the opportunity to resolve the outstanding issues, without undue prejudice to the NMC. The panel accepted that there is no guarantee that both matters would be resolved.

The hearing was therefore adjourned until 09:30 on 30 October 2025.

Decision and reasons on application to further adjourn until 13:00 on Day 13

You were in attendance at this hearing on Day 13.

At 09:30 on Day 13 (30 October 2025), Ms Beaven made a further application to adjourn the hearing, pursuant to Rule 32 of the Rules. She informed the panel that the documents were successfully couriered to the RCN, but due to technical difficulties, the documents did not reach her until the morning of 30 October 2025. She reassured the panel that discussions are ongoing with her instructing solicitors at the RCN, and work is being undertaken to consider all of the documents.

Ms Beaven indicated to the panel that, if time is not afforded for her this morning to resolve the documentation issues, she and her instructing solicitors would be in a position where they are ethically bound to consider their position in respect of continuing to represent you in this hearing.

In response to a question asked by the panel in respect of what these documents are, Ms Beaven was unable to confirm all of the contents as she and her solicitors have not yet considered all of them. However, she indicated that some of the documents are unredacted copies of the controlled drugs register and some correspondence between you and Ms 1. The panel heard that Ms 1 is a manager at the Trust at the relevant time, whom you allege to hold personal animosity against you. Ms Beaven was unable to confirm whether a Rule 31 application will be made in relation to these documents at this time. She requested the panel to give her two hours to have a clearer position.

In response to a question posed by Ms Da Costa on whether these documents have previously been sent to the RCN, Ms Beaven indicated that some of the documents have been provided to the RCN prior to this hearing in redacted form, and some of the documents are new.

Ms Da Costa submitted that she strongly opposes any further adjournment. She submitted that some of the documents have been provided to the RCN and, notwithstanding this, these are documents which have been in your possession for a number of years and could have been made available to both the RCN and the NMC at any time. She further submitted that the unredacted documents are, in any event, documents which you should not be in possession of and were asked by the Trust to return, which you chose not to.

In respect of the remaining documents which the RCN was previously in possession of (albeit redacted), Ms Da Costa reminded the panel that you have been legally represented by the RCN throughout both the local and NMC investigations, and in this hearing. She submitted that evidence would have been considered by you and your legal team prior to this hearing, and the decision has already been made in relation to these documents.

Ms Da Costa submitted that to further adjourn today would cause undue delay. Whilst she acknowledged that no Rule 31 application has yet been made, she reminded the panel that such an application requires the panel to consider both relevance and fairness. She submitted that these documents (which this application seeks to delay proceedings for) are not relevant to the charges, as the NMC has considered all the evidence before it and brought the relevant evidence before this panel.

Ms Da Costa reiterated her submissions in respect of the public protection and public interest considerations before the panel. She reminded the panel that the referral was received by the NMC in 2020, and that if this matter were to go to part-heard again (following the conclusion of the next sitting, in November 2025), it is unlikely to be relisted until the latter half of 2026. She submitted that the reason for this adjournment is due to the delay caused by you being in possession of evidence which you did not make available to your legal team, who are now asking for time to consider it. She submitted that any further delay would be unfair to the NMC and to the public.

Ms Beaven submitted that some of the delay has arisen due to unforeseen technical difficulties, and she asked the panel to bear this in mind in their decision-making.

The panel reminded itself of the legal advice it received in respect of the previous Rule 32 application. In addition to that advice, the legal assessor referred Ms Beaven and Ms Da Costa to the advice given by the Bar Ethics Committee in 2023, in respect of documents disclosed by mistake. He advised that if documents are privileged and clearly disclosed by mistake, they should not be examined and should be returned. Insofar as documents which may contain confidential information (such as in relation to patients), he advised that if these documents have been clearly disclosed by mistake, they, too, should not be examined and should be returned. He acknowledged that this advice is given in general terms, in the absence of any further details relating to the content of these specific documents before Ms Beaven at this stage.

In light of the legal advice, Ms Da Costa submitted that the unredacted documents should not be considered any further. Ms Beaven indicated that, as she has not yet considered all of the documents, not everything which was sent to her falls within this category.

The panel considered this application very carefully, bearing in mind submissions from both Ms Beaven and Ms Da Costa, as well as the legal advice it received. The panel considered the fairness to both you and the NMC, and the interest of justice.

The panel considered that, at this stage, it has no further information as to the documents, save for the indication made by Ms Beaven that some of it concerns unredacted controlled drugs logs, and some of it are correspondence between you and Ms 1. The panel also considered that this is the last day of the October 2025 sitting, and only four days are currently scheduled for the next sitting in November 2025. The panel took into account that the referral was received in 2020, that all the witnesses have been heard, and that the panel is due to hear closing submissions from both Ms Da Costa and Ms Beaven. The panel bore in mind that it has not yet reached the decision-making stage on facts for all 13 of the disputed charges, and that the next available listing date may be in the latter half of 2026.

The panel also considered that, whilst it was unaware of the full extent of the documents, some of these documents have been in the RCN's possession prior to this hearing, albeit in redacted form. The panel reminded itself that, per your oral evidence, you have been in possession of these documents for a number of years. The panel took into account Ms Da Costa's indication that the NMC will likely oppose any Rule 31 application made in respect of these documents in any event.

The panel considered that there is a high public interest in the expeditious disposal of this case, particularly given the delays thus far, and that any further delays would frustrate the efforts to conclude this matter.

However, the panel considered the position Ms Beaven is placed in, and her indication that she and her solicitors may have to reconsider representing you if the panel did not allow her this time to consider the documents. The panel was therefore

in a difficult position, as it acknowledged that if Ms Beaven withdrew her representation, you are likely to request an adjournment in any event (either to allow you time to prepare your own case or seek other legal representation). The panel therefore concluded that, either way, significant progress is unlikely to be made.

Balancing all the above, the panel determined to allow Ms Beaven two hours, until 13:00 on 30 October 2025, to consider the documents she has received from you. The panel therefore adjourned this hearing until then, pursuant to Rule 32 of the Rules.

At 13:00, Ms Beaven informed the panel that the documents were ready to be served upon the NMC. These are an addendum witness statement from you as well as copies of the controlled drugs register with additional annotations made by you in pencil and correspondence between you and Ms 1. Ms Beaven informed the panel that these annotations are other potential erroneous entries which were put to you in a meeting between you and Ms 1, which you allege were not further investigated.

Ms Beaven confirmed that these are the same controlled drugs register entries which are within the NMC exhibits bundle, and that redactions have been undertaken to match the NMC's redactions (i.e. names of patients, dates of birth, hospital numbers) to maintain confidentiality. Therefore, she submitted that there are no confidentiality concerns.

In respect of the correspondence between you and Ms 1, Ms Beaven indicated to the panel that these detailed your attempt to obtain the recording of the meeting between you and Ms 1, but the Trust was unable to provide this recording. Ms Beaven indicated that she will be making a Rule 31 application in respect of all these documents in due course.

In response to questions asked by the panel, Ms Beaven confirmed that these are the same controlled drugs register entries, but with the added annotation made by you at your meeting with Ms 1. When asked how this would be helpful to your case, she submitted that this demonstrates a flaw in the investigation process, and that

only your shifts were deemed suspicious when there was a broader pool of potentially erroneous entries made by others when you were not on shift.

The panel invited Ms Da Costa for her observations. Ms Da Costa expressed concern at its legality, in that you received the controlled drugs register (which were unredacted, thus containing confidential information) in error, which has since been sent on to your representatives at the RCN as well as to Ms Beaven. She accepted that the controlled drugs register appears, from description, to be within the NMC bundle, but she informed the panel that the NMC received a redacted copy of this register in the course of its investigation.

In respect to when you received the controlled drugs register, Ms Beaven informed the panel that this was received following your suspension from the Trust (in July 2022). You recall having three meetings in the course of the Trust's investigation, and your memory is that it may have been the second or third meeting. She confirmed that this would have been in between the two sets of disciplinary proceedings which took place. Ms Beaven submitted that, save for your annotations made in pencil, the panel has this document before it as part of the NMC's exhibits.

Ms Da Costa reiterated her concern that access to a controlled drugs register should be limited to when a registered nurse is on shift, and you would not have had the legal ability to access this document following your suspension.

The panel accepted the advice of the legal assessor. He advised the panel that it should hear Ms Beaven's Rule 31 application in principle and without having sight of the actual documentation at this stage. He reminded the panel that it has been told of the nature of the documentation, and it should be in a position to consider whether to admit this into evidence, pursuant to Rule 31 of the Rules.

This application is considered below. The documents referred to were sent to the Hearings Coordinator, but not circulated to any other party at this stage, given the legal advice.

Decision and reasons on application to admit your additional witness statement and accompanying exhibits into evidence

Ms Beaven made an application to admit your additional witness statement and its accompanying exhibits, namely an annotated copy of the controlled drugs register as well as email correspondence between you and Ms 1, into evidence. She submitted that this is not a new document before the panel, as the register is within the NMC's evidence in any event, but that the document contains annotations you made during your meeting with Ms 1 in respect of other potentially erroneous entries.

Ms Beaven submitted that you accept that you held on to these documents longer than you should have. However, she reminded the panel that irrespective of this, the panel should consider the admissibility of each of the pieces of evidence before it, pursuant to Rule 31 of the Rules.

In respect of relevance, Ms Beaven submitted that you were reminded, during your oral evidence, that you possessed the annotated copies of the controlled drugs register. The annotations were in respect of other potentially erroneous entries identified by Witness 2. As your case is you deny making any false entries, Ms Beaven submitted that the contemporaneous copy of the controlled drugs register with other erroneous entries are relevant, as it indicated that these other entries were disregarded and interest from the Trust appeared to rest only on the entries made whilst you were on shift. Ms Beaven further submitted that, when you requested a copy of the recording of this meeting between you and Ms 1, the Trust confirmed that this has since been destroyed. Accordingly, any further disclosure request which could have been made would not have been fruitful. Ms Beaven submitted that this is relevant in supporting your account.

In relation to fairness, Ms Beaven submitted that the investigations (both the NMC and by other third parties) contained significant paperwork for you to consider, thus the delay in this application. She accepted that NMC witnesses were not questioned on this additional meeting. However, she submitted that the questioning would have been predominantly for Ms 1 to answer, and she was not called as a witness in this case in any event. She acknowledged that a short re-examination is likely to be

necessary for Witness 1 and Witness 2, but these are discrete points and the prejudice to the NMC would be minimal. On the contrary, she submitted that you are facing serious charges, and the prejudice to you if this application was denied would be higher. She invited the panel to admit the additional documentation into evidence.

Ms Da Costa submitted that the NMC accept that the Trust found other suspicious entries at the beginning of its investigation, and this is not in dispute. She reminded the panel that the case is in respect of the entries outlined in the charges (following the NMC's own investigation), and that this panel is not concerned with other potentially erroneous entries made by others.

Ms Da Costa further submitted that Ms 1's importance as a witness to your defence has only been established today, despite you and your representatives being aware of the case against you for several years. She referred the panel to the preprepared statement you produced, which did not mention any meeting with Ms 1 or any other potential documentation which may support your case. She reminded the panel that Ms 1 is not a witness in this hearing, and by accepting these documents, the panel would effectively accept your account of what Ms 1 allegedly said to you at this meeting, which would be unfair. She further submitted that both Witness 1 and Witness 2 would need to be recalled, and as professional witnesses, there is no guarantee that their attendance can be secured at a future listing date.

Ms Da Costa submitted that you have possessed this information for several years, and you are seeking to raise a point which is not in dispute by the NMC. In light of the uncertainty on whether Witness 1 or Witness 2 are able or willing to return to give evidence, whether Ms 1's attendance can be secured and the next possible listing being in the latter half of 2026, Ms Da Costa submitted that it is not in the public interest to admit your witness statement and its accompanying exhibits.

The panel reminded itself of the legal advice it received in respect of Rule 31 applications as well as the principles derived from *Thorneycroft* (outlined in full above).

Prior to reaching its decision, the panel reminded itself that its decision in respect of this application should not be regarded as a routine matter. The panel noted that Ms Da Costa expressed some concerns in respect of the confidentiality of the documentation, but it determined that this was not for the panel's consideration at this time.

The panel first considered whether your additional witness statement and accompanying exhibits are relevant. The panel took into account that the annotations within the controlled drugs register are purported to be other erroneous entries put to you by Ms 1. The panel considered that this is potentially supportive of your defence.

It then moved on to consider whether it would be fair to admit your additional witness statement and accompanying exhibits.

The panel accepted Ms Beaven's submissions that the charges are of the utmost seriousness, and that the NMC is seeking a striking-off order if your fitness to practise is found impaired.

However, the panel considered that the NMC accept that other entries were investigated by the Trust at the relevant time, and the point you seek to make by admitting the documents is not in dispute. The panel noted that, in any event, there is no information before it on whether the Trust did investigate these alleged erroneous entries any further, or the outcome of any such investigation. The panel reminded itself that its considerations in this hearing is limited to the charges as brought by the NMC. The panel also determined that it is not a handwriting expert, and there is no expert evidence to address the additional entries. The panel therefore concluded that, in the absence of this expert evidence, it would be unable to reach a finding on these additional entries in any event.

The panel appreciated that you are a lay person, but it considered that you have been represented by the RCN throughout the Trust and NMC investigations. The panel took into account that you were represented by the RCN at the relevant meeting with Ms 1. The panel considered that you have always maintained that there is some animosity between you and Ms 1, and it was of the view that, if this was

material to your defence, this should have been thoroughly explored prior to the commencement of this hearing.

The panel also considered that Witness 1 and Witness 2 would likely need to be recalled for re-examination on your meeting with Ms 1, and it has been approximately three years since this meeting took place. The panel determined that it would be unrealistic to expect either witness to be able to recall specific details in respect of the meeting, given the passage of time.

The panel bore in mind that both Witness 1 and Witness 2 are professional witnesses, and there may be difficulties in securing their attendance given their practice. The panel further considered that Ms 1 has not been called as a witness to this hearing, and her attendance is unlikely to be secured. The panel took into account that this matter has been ongoing at the NMC for approximately five years (and has been at hearing stage since April 2025), and any further delays to secure the attendance of Witness 1, Witness 2 or Ms 1 would not be in the public interest.

Taking all the above into account, the panel determined that it would be unduly unfair to accept into evidence your additional witness statement and accompanying exhibits. The panel therefore rejected Ms Beaven's application.

Decision and reasons on facts

In reaching its decisions on the facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Ms Da Costa and by Ms Beaven.

The panel heard oral evidence from the following witnesses called on behalf of the NMC:

- Witness 1: Senior Matron at the Hospital
(at the time of the incidents)

- Witness 2: Counter Fraud Specialist at NHS Hampshire and Isle of Wight Integrated Care Board
- Witness 3: Theatre Sister/Team Leader in the Recovery Department at the Hospital (at the time of the incidents)
- Witness 4: Theatre Coordinator/Team Leader at the Hospital (at the time of the incidents)
- Witness 5: Theatre Practitioner at the Hospital
- Witness 6: Clinical Manager in the Recovery Department at the Hospital (at the time of the incidents)
- Witness 7: Healthcare Support Worker at the Hospital (at the time of the incidents)/Colleague 1
- Witness 8: Lead Nurse for Governance in Theatre, ITU and Anaesthetics at the Hospital (at the time of the incidents)
- Witness 9: Forensic Document Examiner (Expert Witness)

The panel also heard evidence from you under affirmation.

Before making any findings on the facts, the panel accepted the advice of the legal assessor. He advised the panel 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. He advised the panel that, whilst the standard of proof does not change, it should consider that more serious charges may require more cogent evidence to find it proved. He further advised the panel that, given the wording of each of the charges, it may wish to consider charges 3 to 8 first (which allege specific incidents), prior to deciding on charges 1 and 2 (which were broader in their time period).

In respect of charges alleging dishonesty, the legal assessor drew the panel's attention to the decision in, and principles derived from, the case of *Ivey v Genting Casinos* [2017] UKSC 67. He advised the panel that, in determining dishonesty, the panel should adopt a two-stage test. The panel firstly should consider your knowledge or belief as to your conduct. Upon making its decision on this stage, the panel should then apply the standards of ordinary, decent people to judge whether the conduct was dishonest.

In reaching its decision on the charges, the panel has considered each charge separately. However, it recognised that certain evidence may relate to more than one charge. Where appropriate, it has drawn proper inferences from the evidence it has accepted.

Certain evidence, for example, that of Witness 8, does no more than raise suspicions. The panel did not regard such evidence as probative of any of the charges. Rather, it considered that such evidence merely gave rise to the matters being investigated.

The panel also had regard to the fact that you are of good character. This has been carefully considered and taken into account by the panel in assessing your credibility and reliability as a witness and also in considering whether you have the propensity

to act as alleged in the charges. However, as will become apparent, the more the panel considered the evidence, the more it was satisfied that you had embarked upon a course of conduct in the relevant period. Indeed, the panel considered it significant that, as a result of enquiries carried out at the request of your representative at the local investigation, it emerged that there were no suspicious entries in the controlled drugs register before you returned to the Hospital in 2020 and none after you were suspended.

With regard to the expert evidence of Witness 9, the panel did not automatically accept it. Rather, it considered it critically, particularly bearing in mind Ms Beaven's closing submissions, and recognising it is for the panel to determine whether or not to accept his evidence. The panel also considered it appropriate to record that it understood Witness 9's evidence to be that, where he stated that in his opinion there was "*strong*" evidence that the handwriting was yours, he was, in effect, stating that it was his opinion that, at least on the balance of probabilities, the handwriting was yours.

Prior to reaching its decision on facts, the panel reminded itself of the legal advice it received in respect of deciding charges 3 to 8 prior to deciding charges 1 and 2. The panel considered that charges 4 to 8, in particular, are allegations relating to specific dates, patients and incidents, whereas charges 1 and 2 are more generalised in the wording, and charge 3 spans a greater time period (which encompasses charges 4 to 8). The panel therefore adopted the approach of deciding the more specific charges first and considering charges 1 to 3 after, despite its numerical order on the charge sheet.

Throughout its deliberations, the panel acknowledged Ms Beaven's submissions in relation to the possibility of other practitioners making false entries on days where you were not on shift. However, the panel reminded itself that it is only concerned with the charges which have been brought by the NMC against you and the evidence that relates to those charges.

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

Charge 1

“That you, a registered nurse:

- 1) Between 11 June 2020 and 14 July 2020 removed Fentanyl and/or Morphine Sulphate from hospital stock for your own use on one or more occasions.”*

This charge is found proved.

The panel noted that this charge is an “*and/or*” charge, and that it would not be necessary to find in respect of both Fentanyl and Morphine Sulphate to find this charge proved.

In reaching this decision, the panel took into account its decisions in respect of charges 4 to 9 below. The panel was satisfied that, based on its findings, you did remove Fentanyl from hospital stock.

The panel considered whether this was for your own use, per the wording of the charge. The panel took into account that there is no evidence before it suggesting that you were consuming Fentanyl in the workplace, or that you were under the influence of Fentanyl at the relevant times. The panel noted that this has not been charged by the NMC, so it made no observations in this regard.

However, the panel determined that “*for your own use*”, in this charge, does not necessarily imply consumption. The panel was satisfied that any unauthorised removal by you from the hospital stock for a purpose outside of the Trust’s controlled drugs policy is also encompassed within the phrase “*for your own use*”.

The panel considered Ms Beaven’s submissions in respect of the circumstantial evidence, and the possibility of bias in the investigative process. The panel reminded itself that it is only concerned with the charges which have been brought by the NMC, in the way it is worded. The panel noted that the Trust’s policy on controlled drugs may not have been adhered to by all members of staff at all times, particularly in light of the COVID-19 pandemic, and that there were other members of staff who

were working in the Hospital (including military service personnel) at the time. However, this panel is only concerned with the allegations brought by the NMC, in respect of your conduct at the relevant time.

In relation to any bias on the part of the Trust's investigative process, the panel was satisfied that both Witness 1 and Witness 2 were objective, and neither witness appeared to have any personal animosity against you or any reason to fabricate their evidence. The panel noted Ms Beaven's submissions in relation to the police taking no further action against you. However, it noted that criminal proceedings are not for the consideration of this panel, and rely on a different standard of proof.

The panel noted that this is an "*and/or*" charge (i.e: Fentanyl and/or Morphine Sulphate), and it made its findings in relation to Fentanyl only. The panel was not satisfied that there is evidence, on the balance of probabilities, in respect of Morphine Sulphate.

Having found as a fact that you did make the false entries in charges 4 to 8 and, in Charge 9, that you did so dishonestly to conceal your removal of the medication, the only logical explanation for your doing so is that the medication was removed was for your own use.

Accordingly, the panel found this charge proved, on the balance of probabilities.

Charge 2

"That you, a registered nurse:

- 2) Your conduct at Charge 1 above was dishonest in that you knew the aforesaid medication did not belong to you."*

This charge is found proved.

In reaching this decision, the panel considered its findings in relation to charge 1 above. The panel considered the two-stage test, pursuant to *Ivey*, in determining this charge.

The panel first considered your state of mind at the relevant time. The panel considered your witness statement, where you deny removing any medication from the hospital stock. However, given its findings in relation to charge 1 above, the panel determined that, on the balance of probabilities, you were aware that the Fentanyl did not belong to you (as it was not prescribed to you), and there would be no other alternative explanation as to why you would believe you were entitled to remove Fentanyl from the hospital stock.

The panel next considered whether your conduct would be regarded as dishonest by the standards of ordinary, decent people. The panel determined that your conduct – namely to remove medication you knew did not belong to you from hospital stock, particularly in a high-trust environment such as recovery nursing – would be regarded as dishonest.

Accordingly, the panel found this charge proved, on the balance of probabilities.

Charge 3

“That you, a registered nurse:

3) On one or more occasions between 11 June 2020 and 14 July 2020 incorrectly recorded in the controlled drug registers for the Recovery area, the name or names of persons who were not patients in the Recovery area on the date you made the entry, as having been administered Fentanyl or Morphine Sulphate.”

This charge is found proved.

The panel noted that this charge is an “or” charge, and that it would not be necessary to find in respect of both Fentanyl and Morphine Sulphate to find this charge proved.

In reaching this decision, the panel considered its findings in relation to charges 4 to 8 below. The panel was satisfied that, based on its decisions, you did incorrectly record in the controlled drugs register, on more than one occasion, that you administered Fentanyl to patients who were not patients in the Recovery Area at the relevant time.

The panel noted that this is an “or” charge (i.e: Fentanyl or Morphine Sulphate), and it made its findings in relation to Fentanyl only. The panel was not satisfied that there is evidence, on the balance of probabilities, in respect of Morphine Sulphate.

Accordingly, the panel found this charge proved, on the balance of probabilities.

Charge 4

“That you, a registered nurse:

4) On 11 June 2020 incorrectly recorded on one or more occasions that Patient A had been administered Fentanyl when they had been discharged on 10 June 2020.”

This charge is found proved.

In reaching this decision, the panel had sight of the controlled drugs register entries, dated 11 June 2020, which indicated that Patient A was twice administered Fentanyl on that day while in Recovery.

The panel also considered the operation times for Patient A, which indicated that they were in Recovery on 10 June 2020, and not 11 June 2020. The panel further considered the Fentanyl administration entries on 10 June 2020, which indicated that Patient A was administered Fentanyl when they were in Recovery (on 10 June 2020). The panel noted that there is no suggestion that Patient A was in Recovery

for two days. Accordingly, the panel was satisfied that the entries made on 11 June 2020 were false, in that Patient A was not in Recovery and could not have been administered any Fentanyl on that date.

The panel took into account Witness 2's witness statement, which confirmed that Patient A was already discharged at the time the entry was made (on 11 June 2020).

The panel next considered whether you made the false entries. The panel considered Witness 9's witness statement, which stated:

'The entries on pages 1 to 3 [...] are those which I indicated there was strong evidence that Natalie Simmons had written. I have marked with red boxes entries I referred to in my statement as being "specifically excluded". This means that I could not say, one way or the other, whether they had been written by Ms Simmons.'

The panel also considered Witness 9's oral evidence. He detailed his methodology, which involved analysing ten specimens of your signature obtained in a controlled setting as well as your handwriting obtained through documents you legitimately produced (such as a Recovery Care Plan) which are then analysed against the suspicious entries. The panel also heard that, in respect of the entries outlined by Witness 9, he found that there was "*strong*" evidence that these entries were made by you. The panel heard that this was on a scale from "*Conclusive*" to "*Inconclusive*", and that the top end of the scale, in descending order, was "*Conclusive*", "*Very strong*" and "*Strong*". The panel also heard that "*Conclusive*" is rarely used in reports, and applies only in specific circumstances such as when someone has no physical ability to write things down. As such, "*strong*", in these circumstances, is the second-most definitive finding which could be made.

The panel acknowledged that Witness 9's witness statement stated:

'I have marked with red boxes entries I referred to in my statement as being "specifically excluded". This means that I could not say, one way or the other, whether they had been written by Ms Simmons.'

Within the entries, the panel had sight of the two right-hand columns which are highlighted by the red box. These are signatures. However, the panel considered that the information which has been written down on the left-hand columns – such as the date, Patient A's name and patient number as well as the dosage of Fentanyl administered – was determined by Witness 9 to have been your entries.

The panel also considered your witness statement, which stated:

'I deny recording that Patient A had been administered Fentanyl after their discharge on 10 June 2020. I have always conducted myself with professionalism and integrity, ensuring patient safety and following hospital policy when handling controlled medications. Without access to full appendices or the relevant drug register entries, it is not possible to accurately review or verify the documentation in question.'

'During my shifts, I always followed the two-person check process for medication administration.'

The panel considered the possibility that another member of staff imitated your handwriting and signature.

However, the panel accepted Witness 9's oral evidence, where he stated that, in comparison to signatures, handwriting is more difficult to copy fluidly and closely, particularly given the variation in your handwriting which occurs naturally. The panel therefore discounted the possibility that another member of staff would have been able to imitate your handwriting, on the left-hand columns of the controlled drug register entry.

The panel acknowledged that, based on your oral evidence, the Trust's policy on medication administration may not always have been adhered to, and that the backdating of entries in the controlled drugs register was likely to have occurred on some occasions. The panel therefore considered whether the entries dated 11 June 2020 were post-dated entries (whether by you or another member of staff)

concerning to the administration of Patient A's medication on 10 June 2020 and had been erroneously dated. The panel determined that this was implausible, as the medication would have been counted on 10 June 2020 (and, in the absence of an entry, enquiries would have been made if an ampoule was missing), and that there was already an entry made on 10 June 2020 in respect of the administration of medication to Patient A. Therefore, the panel concluded that this was not a possible alternative explanation.

Taking all the above into account, the panel was satisfied, on the balance of probabilities, that you made these entries in respect of Patient A, and these entries were incorrect as Patient A had been discharged from Recovery the day before (10 June 2020).

Accordingly, the panel found this charge proved, on the balance of probabilities.

Charges 5 and 6

“That you, a registered nurse:

- 5) On 11 June 2020 incorrectly recorded that Patient B had been administered Fentanyl when they had been discharged on 10 June 2020.*
- 6) On 11 June 2020 incorrectly recorded that Patient C had been administered Fentanyl when it was not prescribed for them on that date.”*

These charges are found proved.

The panel determined that these charges are sufficiently similar in nature and considered these charges together.

In reaching this decision, the panel took into account that Witness 9 conceded he did not analyse the entries made on 11 June 2020 in respect either Patient B or Patient C.

The panel had sight of the controlled drugs register on 11 June 2020, where both Patient B and Patient C were recorded as having Fentanyl administered to them. The panel considered Witness 2's "*suspicious entries*" log, which stated, in respect of both Patient B and Patient C:

'Duplicate entry. This patient had been in Recovery and discharged on 10/6/2020. Theatreman confirmed patient not in Recovery on 11/6/2020'

The panel also considered the operation times for Patient B and Patient C, which indicated that they were both in recovery on 10 June 2020, and not 11 June 2020. The panel further considered the Fentanyl administration entries on 10 June 2020, which indicated that both Patient B and Patient C were administered Fentanyl when they were in Recovery (on 10 June 2020).

In these circumstances, the panel is satisfied that both the entries that are the subject of Charges 5 and 6 are false entries.

The panel accepted the evidence, unchallenged by you, that you were on shift from 08:00 to 20:30 on 11 June 2020. As such, you would have had the opportunity, if you so chose, to make these false entries.

The panel also considered your witness statement in respect of both charges, which stated:

'I deny recording that Patient C [sic] had been administered Fentanyl after their discharge on 10 June 2020. At no point did I administer medication to, or record entries for, any patient I did not personally care for. I have always maintained professional integrity in medication administration and documentation, ensuring that all controlled drug records were completed accurately. I did not make any false entries, nor did I record medication administration for any patient I was not directly responsible for while on shift.'

Without access to the full controlled drugs register, it is not possible to verify or clarify any alleged discrepancies. However, I can state with certainty that I

followed standard procedures and did not document medication administration for patients I was not caring for on 11 June 2020.

[...]

I deny recording that Patient C had been administered Fentanyl after their discharge on 10 June 2020. My responsibility was to ensure that my own entries were accurate and that the patients under my care received the highest standard of treatment. My focus was on maintaining accurate records for the patients, I was directly responsible for. I would have been unaware of which patients were discharged on 10 June, as I was not on shift at that time. Without reviewing the patient's full notes, I cannot comment on who was responsible for their care or any documentation related to them. I consider that the patient's care records should have been reviewed to determine which staff members were involved in their treatment and medication administration on that date.'

The panel noted that "*Patient C*", as referred to in the first paragraph above, was likely a typographical error and instead referred to Patient B, as it was within a header in relation to charge 5.

However, the panel cannot ignore the fact that the false entries in respect of Patients B and C were made on the same day as the false entry in respect of Patient A. The panel has already rejected your denial that you made the entry relating to Patient A and found as a fact that you made that false entry.

The panel considers it implausible that two, or possibly three, members of staff working on the same shift in Recovery would have independently adopted the same *modus operandi* to conceal the apparent misappropriation of Fentanyl.

In these circumstances, the panel considers that it is a proper inference to draw from its finding in respect of Charge 4 that you also made the incorrect entries that are the subject of Charges 5 and 6. Indeed, the evidence demonstrates a pattern of behaviour by you regarding the falsification of entries in the controlled drugs register.

On the balance of probabilities, the panel determined that it was more likely than not that you also made these false entries in respect of Patients B and C.

Accordingly, the panel found charge 5 and charge 6 proved, on the balance of probabilities.

Charge 7

“That you, a registered nurse:

7) On 30 June 2020 incorrectly recorded that Patient D had been administered Fentanyl when they were deceased.”

This charge is found proved.

In reaching this decision, the panel had sight of Patient D’s records, which confirmed that the patient died on 28 December 2007.

The panel had sight of the entry in relation to Patient D on the controlled drugs register, which suggested that Patient D was administered Fentanyl on 30 June 2020. The panel took into account that you were on shift from 08:00 to 21:00 on 30 June 2020. The panel noted Witness 2’s witness statement and oral evidence which confirmed that you were on shift at the time of this entry was made.

The panel considered Witness 9’s expert report, dated 11 January 2021, which indicated that these entries were made by you. The panel acknowledged that Witness 9’s witness statement stated:

‘I have marked with red boxes entries I referred to in my statement as being “specifically excluded”. This means that I could not say, one way or the other, whether they had been written by Ms Simmons.’

However, in the relevant entry, only the signatures within the countersignature columns were within the red box mentioned by Witness 9, and that Witness 9 was satisfied that there is strong evidence to suggest that the remainder of the entries (the date, patient's name, dosages and so forth) were made by you. The panel noted its findings in relation to Witness 9's oral evidence in charge 4 above, and it determined that Witness 9 was clear and consistent in his evidence that these entries were made by you.

The panel also considered your witness statement, which stated:

'I deny recording that Patient D had been administered Fentanyl when they were deceased. I had no involvement or interaction with Patient D, and I did not provide any incorrect details or input any information into the controlled drug register for any patient I did not personally care for. My primary responsibility was to care for patients following surgery in the theatre and recovery environment, ensuring their safety and well-being during the postoperative period.'

'I am not aware of any deceased patients, nor do I have knowledge of how their records are stored or managed, as this falls outside my role and responsibilities within the theatre setting. I have not received any training on accessing or handling records for deceased patients, and I would not have access to any databases or systems containing this information. This can be verified through the hospital's computer administrative system, which would show my access permissions and confirm that I had no ability to view or input data for deceased patients.'

The panel heard, in your oral evidence, that you would not have access to information in respect of deceased patients, and the panel took into account that Patient D may indeed have been deceased prior to your employment at the Hospital. However, the panel noted that it is not necessary for the NMC to prove that you had access to deceased patients' records or any knowledge of or connection to Patient D in order to find this charge proved. The NMC is required only to prove that the entry is false and that it was made by you.

Taking all the above into account, the panel accepted Witness 9's evidence in relation to these entries. The panel considered his evidence that it would be more difficult to replicate your handwriting as opposed to your signature, and that Witness 9 reached his conclusions based on this handwriting (of dates, the patient's name, and dosage allegedly administered). The panel also considered that, given "Conclusive" is a rare finding which is only made in some circumstances, "Strong" is therefore the second-most definitive finding which Witness 9 can effectively make in relation to these entries.

It follows that the panel rejects your denial that you made the entry and finds that this is another example of the pattern of your behaviour.

On the balance of probabilities, the panel was satisfied that you made these entries in respect of Patient D, which were false as Patient D was deceased.

Accordingly, the panel found this charge proved, on the balance of probabilities.

Charge 8

"That you, a registered nurse:

8) On 12 July 2020 incorrectly recorded that Patient E had been administered Fentanyl when it was not prescribed for them on that date."

This charge is found proved.

In reaching this decision, the panel took into account Patient E's recovery care plan, which indicated that you were the recovery practitioner for this patient. The panel considered that, pursuant to the care plan, Patient E was not experiencing pain and was not prescribed any Fentanyl. The panel determined that this was consistent with Patient E's Inpatient Prescription and Administration Chart, which indicated that they were not prescribed any Fentanyl.

The panel also had sight of the controlled drugs register, where there is an entry for Patient E, dated 12 July 2020, indicating they were administered Fentanyl.

The panel considered Witness 9's expert report, dated 11 January 2021, which indicated that these entries were made by you. The panel acknowledged that Witness 9's witness statement stated:

'I have marked with red boxes entries I referred to in my statement as being "specifically excluded". This means that I could not say, one way or the other, whether they had been written by Ms Simmons.'

However, in the relevant entry, only the initials for the countersignature were within the red box mentioned by Witness 9 (to be later considered in charge 12), and that Witness 9 was satisfied that there is strong evidence to suggest that the remainder of the entries (the date, patient's name, dosages and so forth) were made by you. The panel noted its findings in relation to Witness 9's oral evidence in charge 4 above, and it determined that Witness 9 was clear and consistent in his evidence that these entries were made by you.

The panel also had sight of your witness statement, which stated:

'I deny the allegation that I recorded that Patient E had been administered Fentanyl without a prescription. Fentanyl, as a controlled drug, can only be prescribed by a doctor or an anaesthetist. Any prescription would be documented on the front of the patient's drug chart. A review of this chart shows that no Fentanyl was prescribed and, therefore, no medication was administered, as this would also be documented on the drug chart.'

Taking all the above into account, the panel accepted Witness 9's evidence in relation to these entries. The panel considered his evidence that it would be more difficult to replicate your handwriting as opposed to your signature, and that Witness 9 reached his conclusions based on this handwriting (of dates, the patient's name, and dosage allegedly administered). The panel also considered that, given "Conclusive" is a rare finding which is only made in some circumstances, "Strong" is

therefore the second-most definitive finding which Witness 9 can effectively make in relation to these entries. On the balance of probabilities, the panel was satisfied that you made these entries in respect of Patient E, which were false as Patient E was not prescribed Fentanyl.

It follows that the panel rejects your denial that you made the entry and finds that this is another example of the pattern of your behaviour.

Accordingly, the panel found this charge proved, on the balance of probabilities.

Charge 9

“That you, a registered nurse:

9) Your conduct at one or more of charges 3 to 8 above was dishonest in that you knew that none of the persons you recorded as patients had been genuinely prescribed Fentanyl and/or Morphine Sulphate and your conduct was designed to conceal your removal of medication.”

This charge is found proved.

In reaching this decision, the panel considered its findings in relation to charges 3 to 8 above. The panel considered the two-stage test, pursuant to *Ivey*, in determining this charge.

The panel first considered your state of mind at the relevant time. The panel considered your witness statement, where you deny that you made these entries. The panel also considered your oral evidence, where you told the panel that you are an experienced nurse in this field, and that you obtained specialised training after you qualified. The panel was therefore of the view that your experience would indicate that you were familiar with controlled drugs such as Fentanyl, the administration of the drugs as well as the documentation associated with management of the drugs.

The panel next considered whether your conduct was designed to conceal your removal of the medication. The panel considered your oral evidence, where you stated that no concerns have been raised about your presentation. The panel determined that there is no evidence before it suggesting that you were under the influence of controlled medication at work.

However, the panel reminded itself that it is only concerned with the charges which have been brought by the NMC, in the way it is worded. The panel noted that there is no charge alleging you consumed any of the controlled drugs in the workplace, or that you appeared to be under the influence of any controlled drugs. The panel determined that, on the balance of probabilities, these entries were made by you to conceal your removal of the controlled drugs, irrespective of what the purpose of the removal may be. The panel considered that the controlled drugs, per the Trust's policy, were counted daily, and that a removal of the drugs which has not been documented would result in the number of ampoules not tallying in the daily counts. This would subsequently lead to an investigation into where the missing drugs were. The panel therefore concluded that the only plausible explanation for you making the false entries was to conceal your removal of the medication.

The panel therefore determined that, on the balance of probabilities, you were aware that the patients outlined in the charges were not prescribed Fentanyl, and that you were knowingly making false entries within the controlled drugs register.

The panel next considered whether your conduct would be regarded as dishonest by the standards of ordinary, decent people. The panel determined that your conduct – namely to record false patient information to conceal your removal of controlled drugs – would be regarded as dishonest.

The panel noted that this charge is an “*and/or*” charge, and that it would not be necessary to find in respect of both Fentanyl and Morphine Sulphate to find this charge proved. Based on its findings in charges 3 to 8 above, the panel finds this charge proved on the basis of the Fentanyl entries only. It determined there is no evidence before it in respect of Morphine Sulphate.

Accordingly, the panel found this charge proved, on the balance of probabilities.

Charge 10

“That you, a registered nurse:

10) On 12 July 2020 you asked Colleague 1, a health care assistant, to countersign the entry or entries you made in the controlled drugs register for Patient F.”

This charge is found proved.

The panel noted that Colleague 1 is also identified as Witness 7 in these proceedings.

In reaching this decision, the panel took into account Witness 7’s witness statement, which stated:

‘I was helping her with a patient and she asked me to sign the Controlled Drugs (CD) book for some drugs. I can’t recall which drug, but I told I was not qualified to counter-sign for drugs. She told me not to worry and that it would be fine. I trusted her as she was a qualified nurse. She said “it’s OK I’ll cover you” or words to that effect. She pointed at the page and said “Can you sign here?”. I told her I couldn’t see properly because I didn’t have my glasses and there was glare from the lights. She said “that’s OK, just there” and pointed with her finger. I signed it. I appreciate it was naïve of me and it was the only time I did it. I didn’t think any more of it.’

The panel also had sight of Witness 7’s local statement provided to the Trust, dated 3 September 2020, which stated:

‘I was asked by Natalie to co-sign for IV Fentanyl for a patient in the CD book. I told her that I am not suppose [sic] to do this and she said it would be fine and that she would cover for me and take responsibility. She points where to sign and

I said I haven't got my glasses she pointed again and said just sign there, which I did. I didn't really think too much about it at the time ...'

The panel also heard oral evidence from Witness 7, where she accepted that you and her were friends, and had a good working relationship. The panel considered that Witness 7's oral evidence is clear and consistent, even in cross-examination, with both her witness statement to the NMC as well as her local statement to the Trust, in that you asked her to sign the controlled drugs register. The panel noted that Witness 7 was summoned to attend this hearing and spoke positively of you, and it determined that Witness 7 had no reason to fabricate any allegations against you.

The panel also considered your witness statement, which stated:

'I deny asking Colleague 1 to countersign the controlled drugs register for Patient F, knowing they were not qualified. In this situation, the patient was in significant pain in recovery and attempting to climb out of bed. There were no qualified practitioners immediately available to assist with the administration of medication. I made a call to theatres, but no one was free at the time, as another patient was on the operating table.

Colleague 1, who had over 20 years of experience in the department, offered to help during this situation. I did not ask her to countersign the register, but she volunteered to witness the removal and administration of medication. I had been away from the department for over four years and was returning to work during the pandemic. This was my first weekend shift back, and despite being considered a senior member of staff, I had not received any recent training or updates on my skills in regards to complications that arise over weekends. There were no other members of staff to liaise with at that immediate time.'

As a consequence of the amendment to this charge, the issue to be determined by the panel is whether the NMC has proved on a balance of probabilities that you

asked Witness 7 to countersign the entries you accept you made regarding Patient F and that she did not volunteer to do so.

Taking into account all the above, the panel determined that it was more likely than not that you asked Witness 7 to sign the controlled drugs register, rather than she volunteered to do so. The panel considered that Witness 7, based on her evidence, was under the impression that she should not be signing the controlled drugs register. Further, she told the panel that Witness 5 (who was a registered nurse, and therefore qualified to countersign the controlled drugs register) was available at the relevant time. Given Witness 7's experience as a healthcare assistant and that she was aware Witness 5 was available to countersign, the panel determined it was unlikely that she would have volunteered to do so. The panel therefore accepted Witness 7's evidence in respect of this charge.

It rejected your account that Witness 7 volunteered to countersign the controlled drugs register entry and the suggestion that she only came forward because she was concerned that she would get into trouble for countersigning the entry.

Accordingly, the panel found this charge proved, on the balance of probabilities.

Charge 11

"That you, a registered nurse:

11) Your conduct at charge 10 was dishonest in that you knew that Colleague 1 had not witnessed the removal and/or administration of controlled medication for Patient F."

This charge is found proved.

The panel noted that Colleague 1 is also identified as Witness 7 in these proceedings.

The panel considered that Witness 7, in her oral evidence, confirmed that she did not witness the administration of Fentanyl for Patient F. The panel accepted her evidence in respect of charge 10 and has no reason not to do so for this charge.

The panel considered your witness statement, which stated:

'I deny that Colleague 1 had not witnessed the removal and/or administration of controlled medication for Patient F. Colleague 1 did witness the removal and administration of the medication. We continued to work as normal, with Colleague 1 assisting me in caring for the patient during the process. This indicates that she was fully aware the patient was receiving medication. Following the medication administration, Colleague 1 also assisted me with returning the patient to the ward, demonstrating her involvement in the patient's care throughout this process.'

Within the recovery area, it is standard practice to work on a one-to-one basis with patients. This means that while the administration of medication is not directly witnessed by another practitioner, the removal of medication from the controlled cupboard and its disposal is witnessed. Medication administration typically happens in small incremental doses, which are titrated based on the patient's needs. Once the patient is stabilised, the medication is disposed of, and a witness will sign the controlled drugs register for disposal. However, during the COVID period, this procedure was not always completed in real time. Due to the pressures of the pandemic and staff shortages, disposal documentation was sometimes signed hours or even a day or so later, as opposed to immediately after the event.'

The panel rejected your account that Witness 7 witnessed the medication administration.

The panel considered that, in both your oral evidence and Witness 7's oral evidence, you and Witness 7 had a good working relationship, and you considered each other to be a friend. The panel was of the view that you asked Witness 7 to countersign the entry as, due to your relationship, she was likely going to be more amenable to

signing the register without witnessing the administration, in breach of the Trust's policy.

The panel acknowledged the challenges posed by the COVID-19 pandemic at the relevant time, and the potential non-compliance with the Trust's policy due to the strain that the pandemic had imposed upon healthcare professionals. However, the panel considered both Witness 7's and Witness 5's evidence, and both witnesses were clear and consistent in their evidence that Witness 5 (who was a registered nurse) was available at the time you needed a counter-signatory to witness the administration of medication.

In deciding whether the NMC had proved that you acted dishonestly, the panel considered the two-stage test, pursuant to *Ivey*.

The panel determined that, on the balance of probabilities, you were aware that Witness 7 did not witness the removal and/or administration of controlled medication for Patient F, but you asked her to sign the entry despite this. As such, you knew you were acting dishonestly.

The panel next considered whether your conduct would be regarded as dishonest by the standards of ordinary, decent people. The panel determined that your conduct – namely to ask a colleague to sign for controlled drugs administration they did not witness, when you knew they did not witness it – would be regarded as dishonest.

Accordingly, the panel found this charge proved, on the balance of probabilities.

Charge 12

“That you, a registered nurse:

12) On 12 July 2020 you wrote Colleague 1's initials in the controlled drugs register for Patient E.”

This charge is found proved.

The panel noted that Colleague 1 is also identified as Witness 7 in these proceedings.

The panel considered its findings in relation to charge 8 above. The panel noted that this charge is in relation to the same patient (Patient E) and same entries (dated 12 July 2020) as charge 8. The panel took into account its decision in relation to that charge, namely that you did incorrectly record that Patient E had been administered Fentanyl when it was not prescribed for them on that date.

In determining this charge, the panel considered Witness 9's witness statement, which stated:

'I have marked with red boxes entries I referred to in my statement as being "specifically excluded". This means that I could not say, one way or the other, whether they had been written by Ms Simmons.'

The panel also considered Witness 9's oral evidence, where he detailed his methodology, and his indication (marked by red boxes within the controlled drugs register) of entries where he could not conclude whether it was your handwriting. The panel took into account that Witness 7's initials in respect of Patient E's entry on 12 July 2020 was within this red box. The panel was therefore of the view that Witness 9 could not determine that these initials were made by you.

However, the panel considered Witness 7's witness statement, which stated:

'However, we also noticed there was another [PRIVATE] signature immediately below for a patient named [Patient E]. I said to [Ms 2] "that wasn't me".'

The panel also considered Witness 7's oral evidence, where she denied signing her initials on this entry. The panel was satisfied that Witness 7's oral evidence in respect of this was clear and consistent with her witness statement.

The panel had sight of your witness statement in relation to this charge, which stated:

'I deny writing Colleague 1's initials in the controlled drugs register for Patient E on 12 July 2020. No initials other than my own were written in the register for my patients. The controlled drugs register I maintained was used for my patients only, and I ensured that all entries were accurate according to the medication administered to those in my care.'

As a matter of fact, [PRIVATE] are the initials of Witness 7.

Given Witness 7's clear and consistent evidence that she did not write down her initials in respect of Patient E's entries, the panel was satisfied that this was the case. The panel had particular regard to Witness 7's candour in admitting when she did sign the controlled drugs register (despite her belief that she could not do so), such as in her evidence in relation to charge 10. The panel therefore determined that, if Witness 7 had made this entry, she would be more likely than not willing to admit doing so before this panel.

The panel has already found charge 8 proved and, on the basis of Witness 9's evidence, that the first four entries in relation to Patient E are in your handwriting. The panel finds as a fact that, in order to make a false entry appear to be genuine, the entry needs to appear to have been countersigned by a witness. Accordingly, the only inference that can properly be drawn is that you also wrote [PRIVATE] in order to make a false entry appear genuine. You chose Witness 7's initials because, at your request shortly beforehand, she had countersigned Patient F's entry.

Accordingly, the panel found this charge proved, on the balance of probabilities.

Charge 13

"That you, a registered nurse:

13) Your conduct at charge 12 was dishonest in that you knew that Colleague 1 had not witnessed the removal and/or administration of medication for Patient E and your conduct was designed to conceal your removal of medication.”

This charge is found proved.

The panel noted that Colleague 1 is also identified as Witness 7 in these proceedings.

In reaching this decision, the panel considered its findings in relation to charges 8 and 12 above. In particular, it considered its finding that Patient E had not been prescribed Fentanyl and, therefore, would not have been administered it on 12 July 2020.

In these circumstances, the only plausible explanation for you making the false entries in respect of Patient E was to conceal your removal of the Fentanyl that, on the face of the entries, had been administered to him and to ensure that the number of ampoules within the controlled drugs cupboard tallied with that on the controlled drugs register, preventing any enquiries being made as to any missing ampoules.

In determining whether your conduct in relation to Charge 12 was dishonest, the panel considered the two-stage test, pursuant to *Ivey*, in determining this charge.

The panel first considered your state of mind at the relevant time. The panel considered that you were an experienced nurse in this area, and you would have been aware of the controlled drugs policies at the Trust governing the administration and recording of controlled drugs (such as Fentanyl). The panel determined that, given your experience in this area of nursing, you would have known that it would be dishonest to write Witness 7's initials in the entry, implying she witnessed the administration of Fentanyl, when you knew she did not.

The panel next considered whether your conduct would be regarded as dishonest by the standards of ordinary, decent people. The panel determined that your conduct – namely to write a colleague's initials to indicate they witnessed a controlled drugs

administration when they did not do so, in an attempt to conceal your removal – would be regarded as dishonest.

Accordingly, the panel found this charge proved, on the balance of probabilities.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether your 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, your fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

Ms Da Costa invited the panel to take the view that the facts found proved amount to misconduct. She referred the panel to the decision in, and principles derived from, the case of *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311. She submitted that your actions were the sophisticated and pre-meditated misappropriation of controlled drugs from the Hospital and involved the falsification of controlled drugs register entries in respect of a deceased patient as well as patients who have not been prescribed Fentanyl. She submitted that this is a serious

departure of what is expected of a registered nurse, and your actions plainly amount to misconduct.

She submitted that paragraphs 10.3, 20.1 and 20.2 of the Code: Professional standards of practice and behaviour for nurses and midwives 2015 ('the Code') are engaged in this case. She reminded the panel that it is not bound by the recommendation from the NMC, and that the panel may consider whether other paragraphs of the Code are engaged.

Ms Beaven accepted that, given the facts found proved, your actions amounted to misconduct.

Submissions on impairment

Ms Da Costa 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.

Ms Da Costa submitted that the misconduct brings into question your professionalism and trustworthiness, particularly in respect of controlled drugs and record keeping, as well as the care you may give to patients, given that what you did with the Fentanyl you removed is presently unknown.

She drew the panel's attention to the four "limbs" as outlined in *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council and (2) Grant* [2011] EWHC 927 (Admin). She submitted that, in respect of limb (a), the concerns relate to the removal of controlled drugs intended for patients, and the panel has no information before it as to what the removed drugs were used for. She submitted that this placed patients at an unwarranted risk of harm. In respect of limb (b), Ms Da Costa submitted that the concerns raise questions in respect of your professionalism and honesty, and your conduct has brought the nursing profession into disrepute. In respect of limb (c), she further submitted that you have breached the sections of the Code, and that honesty and professionalism are at the core of the nursing

profession. On limb (d), Ms Da Costa submitted that dishonesty is a sliding scale of seriousness, and your actions are on the top end of that seriousness scale.

Ms Da Costa reminded the panel that impairment is a forward-thinking exercise, and that it should consider whether you are able to practise kindly, safely and professionally. She submitted that the misconduct raises concerns in respect of your attitude, given the pre-meditated and sophisticated nature of your conduct. She further submitted that, consequently, the concerns may not be remediable. She submitted that, in the absence of sufficient insight and remediation, you continue to pose a risk of harm and there is a risk of repetition. She noted the reflective piece and training certificates you have provided, but she submitted that your insight, at this stage, is insufficient given the seriousness of this case. She invited the panel to find that your fitness to practise is impaired on public protection grounds.

In respect of the public interest, Ms Da Costa submitted that public confidence in the profession would be undermined if a finding of impairment were not made in this case. She submitted that a reasonable and well-informed member of the public would be alarmed and shocked if a finding of impairment was not made against a nurse who was dishonest in respect of removing controlled drugs from the hospital stock and making false entries in respect of them. She therefore submitted that a finding of impairment is also necessary on public interest grounds.

Ms Beaven submitted that you accept the seriousness of the findings against you, albeit you did not accept you acted in this way and that you are entitled to defend your case. She drew the panel's attention to the reflective piece you have provided, and she submitted that you have demonstrated an understanding of the seriousness of the case against you, and the impact of the allegations on patients as well as the wider profession. Ms Beaven further submitted that you have also attempted to maintain your skills to the best of your ability.

Ms Beaven reminded the panel that impairment is a forward-thinking exercise, and she invited the panel to consider the time which has lapsed since the incidents in 2020. She submitted that there have been no concerns in relation to your practice prior to or since these incidents, and consequently, there is no risk of repetition. She

reminded the panel that there has been no finding that you misused or consumed Fentanyl, and she urged the panel to not speculate as to what happened to the missing controlled drugs. She submitted that there is no evidence of any harm to patients as a result of your conduct, and no concerns about your presentation were ever raised at the Trust. Ms Beaven submitted that you defended your case, and you have sought to demonstrate as much insight as you are able to.

The panel accepted the advice of the legal assessor. He reminded the panel that misconduct is a matter for the panel's professional judgement. He drew the panel's attention to the decisions in, and principles derived from, the cases of *Roylance*, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and *Johnson and Maggs v Nursing and Midwifery Council* [2013] EWHC 2140 (Admin).

He further advised that the determination of your fitness to practise is a two-stage process. He reminded the panel that a consideration of impairment is made only following a finding of misconduct. He advised the panel that this is a forward-thinking exercise, and that the purpose of these proceedings is not to punish any past misconduct, but instead to protect the public as well as to uphold proper standards of conduct and maintain public confidence in the profession. He drew the panel's attention to the decisions in, and principles derived from, the cases *Grant* and *Cohen v General Medical Council* (2008) EWHC 581 (Admin) for its consideration on impairment.

Decision and reasons on misconduct

When determining whether the facts found proved amount to misconduct, the panel had regard to the decision in *Roylance*, 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*', as well as to the terms of the Code.

The panel was of the view that your actions did fall significantly short of the standards expected of a registered nurse, and that your actions amounted to a breach of the Code. Specifically:

‘10 Keep clear and accurate records relevant to your practice

This applies to the records that are relevant to your scope of practice. It includes but is not limited to patient records. To achieve this, you must:

10.3 complete records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements.

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

20.2 act with honesty and integrity at all times [...]

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

The panel next considered each of the charges in turn.

In respect of charges 1 and 2, the panel determined that the removal of Fentanyl from Hospital stock for your own use on more than one occasion (charge 1) and the subsequent dishonesty associated with this (charge 2) amount to misconduct.

The panel was satisfied that, given the similarity in their nature, charges 3 to 8 can be considered together. The panel determined that making false entries in the controlled drug register in respect of the administration of Fentanyl to patients amounted to misconduct. In respect of charge 9, the panel was satisfied that dishonesty, namely making these false entries to conceal your removal of Fentanyl from the hospital stock amounted to misconduct.

In relation to charge 10, the panel considered that, given your experience, you ought to have been aware of the Trust’s policy in relation to appropriate members of staff who can countersign a controlled drugs register. Whilst the panel acknowledged that healthcare assistants, in some circumstances, are able to sign the controlled drugs register, the panel took into account that another registered nurse was available at

the time. The panel noted that this, in isolation, may amount to a breach of Trust policy, as opposed to serious professional misconduct. However, the panel took into account its findings in fact that this was part of a greater course of conduct. The panel therefore determined that your actions amounted to misconduct. Accordingly, the panel determined that the dishonesty associated with it (charge 11) also amounted to misconduct.

In relation to charges 12 and 13, the panel was satisfied that making a false entry and signing the controlled drugs register as a colleague amounted to misconduct.

The panel was of the view that the facts found proved were indicative of a pattern of conduct over a period of approximately one month. Taking all the above into account, the panel determined that honesty and integrity are fundamental to the nursing profession, and your actions fell seriously short of the conduct and standards expected of a registered nurse.

Accordingly, the panel was satisfied that the facts found proved amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, your 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. 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 considered each of the above limbs in turn.

On whether patients were put at unwarranted risk of harm, in the past, as a result of your misconduct, the panel took into account that it has no evidence that actual harm came to any of the patients. The panel noted its earlier findings, namely that there is no evidence before it that you consumed the controlled drugs whilst on shift.

However, the panel considered that you removed the controlled drugs from the hospital stock, and dishonestly recorded false entries in the controlled drugs register to conceal the removal. The panel determined that this dishonesty and you placing your decision to misappropriate the controlled drugs above your patients, posed an unwarranted risk of harm to the patients within your care.

In relation to limb (b), the panel was satisfied that your misconduct brought the nursing profession's reputation into disrepute, and that confidence in the nursing profession would be seriously undermined if its regulator did not find charges relating to the removal of controlled drugs for personal use and repeated dishonesty in relation to that removal serious.

Further, in relation to limb (c), the panel was also satisfied that your misconduct had breached fundamental tenets of the nursing profession, namely honesty and integrity in relation to your nursing practice. The panel determined that trustworthiness is at the heart of the nursing profession, and the public must be able to trust nurses.

On limb (d), concerning dishonesty, the panel found that your actions – namely to remove controlled drugs from the hospital stock and subsequently make false patient record entries to conceal the removal – were several instances of dishonesty.

The panel took into account that impairment is a forward-thinking exercise, and it should consider whether your fitness to practise is currently impaired.

The panel next considered whether you are liable, in the future, to bring the nursing profession into disrepute, breach one of the fundamental tenets of the nursing profession and act dishonestly, pursuant to *Grant*. In reaching its decision, the panel also considered the principles derived from *Cohen*, namely:

- Whether the concern is easily remediable;
- Whether it has in fact been remedied; and
- Whether it is highly unlikely to be repeated.

The panel first considered whether your actions are remediable. The panel was of the view that dishonest conduct is incredibly difficult to remedy. The panel noted that dishonesty is on a spectrum, and there are less serious forms of dishonesty which are more easily remediated. However, the panel took into account that your dishonesty was not a single incident and was repeated over a number of incidents involving different patients' entries. The panel considered that your dishonesty concerned the removal of controlled drugs from the hospital stock, and the subsequent falsification of patient records in the controlled drugs register to conceal it. Accordingly, the panel determined that the nature of your misconduct requires a significant degree of insight to be shown before the panel can be satisfied that it has been sufficiently remedied.

The panel then considered whether you have sufficiently remedied these concerns. The panel considered your reflective piece, dated February 2025. The piece reads:

'At the time these allegations came to light, I felt an overwhelming sense of confusion and distress. I have spent a significant portion of my life in the nursing profession, where my integrity and professional conduct have always been my guiding principles. The idea that there could be a suggestion of wrongdoing on my part has been difficult to process. However, upon reflecting

on the allegations, I understand how such situations can have a broad impact, not just on my own career, but on the profession as a whole.

[...]

While my actions in the past have always been in alignment with the NMC's Code, I understand that situations like these may create doubt about the future of my practice. It's crucial to ensure that these doubts are dispelled. I also acknowledge that allegations—whether upheld or not—can affect the reputation of the profession, the trust between colleagues and patients, and even the integrity of the healthcare system.

[...]

Despite the allegations, I remain deeply committed to my career as a nurse and educator. I continue to hold myself accountable to the NMC Code and am dedicated to learning and growing as a practitioner. I am also grateful for the opportunity to pursue new avenues in teaching and education, which will further enhance my skillset as a professional. My future as a registrant is rooted in the values of integrity, professionalism, and continuous self-improvement.'

The panel also had sight of the reading log you have provided to the panel, explaining the relevant reading you have undertaken since the incidents as well as the following training certificates:

- *'How to perform drug calculations for the safe administration of intravenous (IV) infusions and medicines'*, dated 8 January 2022;
- *'How to perform drug calculations for the safe administration of oral medications'*, dated 8 January 2022;
- *'Maintaining best practice in record keeping and documentation'*, dated 8 January 2022;

- '*Promoting effective communication skills in nursing practice*', dated 8 January 2022;
- '*Reducing medication errors in nursing practice*', dated 8 January 2022;
- '*Reflection in nursing practice*', dated 8 January 2022;
- '*Safe storage and handling of vaccines*', dated 8 January 2022; and
- '*Understanding attitudes and their effects on nursing practice*', dated 8 January 2022

The panel accepted Ms Beaven's submissions in respect of the rejected defence, and it acknowledged your right to defend your case.

However, whilst the panel was of the view that the training you have undertaken has been varied and relates to medication, the panel determined that the training and reflection does not address the fundamental concern, namely your dishonesty. The panel considered that the conduct was not a medication error (i.e.: borne out of a lack of competence, or mistakes made due to carelessness), which is what the above training addresses. The panel determined that, at this stage, you have shown limited insight into your dishonesty and the attitudinal element of this case.

Taking all the above into account, the panel considered whether the conduct is highly unlikely to be repeated. The panel considered that you have had an unblemished nursing career prior to the incidents. However, the panel determined that it is unable to find that the conduct is highly unlikely to be repeated, given your lack of full insight into your misconduct and the attitudinal nature of the concerns.

Based on the above, the panel determined that you are liable, in the future to put patients at unwarranted risk of harm, bring the nursing profession into disrepute, breach one of the fundamental tenets of the nursing profession and act dishonestly, pursuant to *Grant*. The panel therefore concluded that your fitness to practise is impaired on public protection grounds.

Additionally, the panel bore in mind the overarching objectives of the NMC, namely 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 public confidence in the profession would be undermined if a finding of impairment were not made in this case, particularly given the finding of your repeated dishonesty. The panel concluded that a reasonable and well-informed member of the public would be shocked and concerned if a finding of impairment was not made against a nurse who was dishonest in respect of removing controlled drugs from the hospital stock and making false entries in respect of them. The panel, therefore, determined that a finding of impairment is also necessary on public interest grounds.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired on both public protection and public interest grounds.

Sanction

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

Submissions on sanction

The panel noted that in the Notice of Hearing, dated 7 March 2025, the NMC had advised you that it would seek the imposition of a striking-off order if it found your fitness to practise currently impaired.

Ms Da Costa invited the panel to consider the Sanction Guidance (SG) and submitted that a striking off order is proportionate and fair and would properly address the public protection and the public interest concerns in this case.

Ms Da Costa submitted that the aggravating factors in this case include:

- Insufficient insight into your conduct;
- A pattern of dishonesty over a significant period of time
- The removal of medication intended for patients

Ms Da Costa submitted that there are no mitigating factors in this case.

Ms Da Costa referred the panel to the NMC guidance, namely SAN-2, and submitted that there remains a risk of repetition and therefore a risk of harm. She submitted that your conduct involved acting dishonestly and removing medications intended for patient use. She submitted that you were dishonest in your actions, and honesty is of central importance to a nurse, and that allegations of dishonesty are always of the utmost seriousness.

Ms Da Costa submitted that your conduct as found proved was prolonged, premeditated, calculated and sophisticated in nature, and as a result, there is clearly a deep-seated attitudinal issue in regard to these matters. She also submitted that attitudinal issues are not always easily remediable, and when taking the factors in this case into consideration, it is clear your conduct is fundamentally incompatible with remaining on the register. She submitted that it is for the panel to consider the kind of dishonest conduct that has taken place, and whether you should be allowed to remain on the register.

Ms Da Costa invited the panel to impose a striking off order in this case.

Ms Beaven submitted that there are some mitigating factors in this case, including the following:

- No evidence of actual harm to patients; and
- No concerns raised regarding your clinical practice.

Ms Beaven submitted that you had completed a reflective piece whilst still maintaining your right to the rejected defence. She explained that you had gone as far as you could go, given you denied the charges.

Ms Beaven submitted that there is nothing before this panel to suggest you removed the medication for self-use, and that patients under your care were harmed. She also stated that there is no evidence to support that you removed the medication for personal gain, and that it remains unknown as to what became of those controlled drugs.

Ms Beaven submitted that the panel, in reaching its decision, must consider all possible sanctions in ascending order of severity. She submitted that there have been no previous concerns raised in regard to your fitness to practise as a registered nurse, and that you were previously of good character. She further submitted that you are entitled to raise a defence, and that at no point have you sought to implicate others in the dishonest actions that you have been found to have undertaken. She submitted that you have willingly highlighted and identified where you felt there were flaws in the investigations, and why you are of the belief that you have been wrongly implicated, but that you have not accused witnesses of lying during evidence.

Ms Beaven reminded the panel of the importance of proportionality, and submitted that imposing a striking off order would have the most serious effect on you. She submitted that you have [PRIVATE]. [PRIVATE]. [PRIVATE]. She submitted that the imposition of a striking-off order will prevent you from working as a registered nurse, and consequently, it will also have severe reputational damage for your working life, and in turn, have a detrimental impact on any future career choices.

Ms Beaven submitted that all factors should be considered when assessing proportionality, and invited the panel to also consider that the risks identified could be managed by the imposition of a lesser sanction than that of a striking off order.

The panel accepted the advice of the legal assessor.

Decision and reasons on sanction

Having found your 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:

- Lack of insight into your failings;
- Abuse of a position of trust;
- Calculated course of action;
- A pattern of misconduct and dishonesty over a period of time; and
- Removal of medication intended for patients.

The panel also took into account the following mitigating feature:

- [PRIVATE].

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

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict your 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 your misconduct, involving dishonesty, 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 your registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the attitudinal nature of the concerns. Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case and would not protect the public or satisfy the wider public interest.

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 panel considered the above in turn.

The panel determined that the facts found proved were not a single instance of misconduct, and that the misconduct concerned the removal of controlled drugs and subsequent false entries for five patients between June and July 2020. It considered that the matters found proved relate to dishonesty and the removal of controlled drugs, and that there remains a risk of harm. It further considered that you failed to demonstrate sufficient remediation, and

there is evidence of harmful and deep seated attitudinal problems, and a significant risk of this behaviour being repeated.

The panel accepted that there was no evidence before it of repetition of the same behaviour since the incident. However, the panel noted that you have not worked as a registered nurse for some time.

On whether you have sufficient insight and do not pose a significant risk of repeating behaviour, the panel considered its findings in respect of your fitness to practise above. The panel determined that you have not shown full insight into your misconduct and there remains a significant risk of you repeating the behaviour should you find yourself with the opportunity to do so again.

Taking all the above into account, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction, particularly in light of the seriousness of the case.

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 considered each of the above in turn.

On whether your actions raise fundamental questions about your professionalism, the panel considered that you embarked on a pattern of dishonesty, involving both the removal of controlled medication from hospital stock as well as making false

patient entries to conceal that removal. The panel determined that your actions were significant departures from the standards expected of a registered nurse. The panel took into account that the appropriate management of medication, particularly controlled drugs, is a fundamental tenet of the nursing profession, and your actions raise fundamental questions about your honesty, integrity and professionalism.

The panel next considered whether public confidence in nurses can be maintained if you were not removed from the register. The panel considered that your actions were serious and repeated, and occurred within your clinical nursing practice. The panel determined that public confidence could not be maintained if a registered nurse, following repeated removal of Fentanyl from hospital stock as well as making false entries into patient records to conceal that misappropriation was not struck off from the nursing register. The panel was of the view that to allow you to continue practising, following this finding against you, would undermine public confidence in the profession and in the NMC as a regulatory body.

Balancing all of these factors above, the panel determined that a striking-off order is the only sanction which will be sufficient to protect patients, members of the public and maintain professional standards. The panel determined that your actions are fundamentally incompatible with you remaining on the register. Having regard to the effect of your 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 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 you in writing.

Submissions on interim order

Ms Da Costa invited the panel to impose an interim suspension order for a period of 18 months. She submitted that an interim suspension order for a period of 18 months is necessary given the panel's findings in order to protect the public and meet the wider public interest. Further, she submitted that this was required to cover the 28-day appeal period and, if you wish to appeal the decision, the period for which it may take for that appeal to be heard.

Ms Beaven did not oppose the application.

The panel 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 striking-off order. It therefore decided to impose an interim suspension order for a period of 18 months.

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

This will be confirmed to you in writing.

That concludes this determination.