

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

**Substantive Hearing
Tuesday, 9 September 2025 – Friday, 12 September 2025**

Virtual Hearing

Name of Registrant:	Tina Santa Dunglison
NMC PIN:	91A0636E
Part(s) of the register:	Registered Nurse - Sub part 1 Adult nurse, level 1 (8 August 2007)
Relevant Location:	West Sussex
Type of case:	Misconduct and Conviction
Panel members:	Susan Thomas (Chair, Lay member) Catherine McCarthy (Registrant member) Lynne Vernon (Lay member)
Legal Assessor:	Charles Conway
Hearings Coordinator:	Eyram Anka
Nursing and Midwifery Council:	Represented by Richard Webb, Case Presenter
Mrs Dunglison:	Present and unrepresented
Facts proved by way of admission:	Charges 1 and 2
Fitness to practise:	Impaired
Sanction:	Conditions of practice order (12 months)
Interim order:	No order

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

Mr Webb, on behalf of the Nursing and Midwifery Council (NMC), made an application for this case to be held partly in private on the basis that proper exploration of your case involves some reference to your [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

You 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.

Having heard that there will be some reference to your [PRIVATE], the panel determined to go into private session as and when such matters are raised, in order to protect your privacy.

Details of charge

That you, a registered nurse:

- 1) On 02 September 2024, at [PRIVATE] Magistrates' Court, were convicted of:
 - a) Between the 1st October 2021 and the 3rd July 2023 at [PRIVATE] in the County of West Sussex pursued a course of conduct, namely that you sent WhatsApp messages, sent letters, drove past her house and repeatedly accessed her personal NHS records, which amounted to stalking causing [Patient A] serious alarm or distress, which had a substantial adverse effect on her usual day-to-day activities when you knew or ought to have known that your course of conduct would cause alarm or distress;

2) Between 08 December 2021 and 11 May 2023, accessed Patient B's medical records without his consent or clinical justification.

AND, in the light of the above, your fitness to practise is impaired by reason of your conviction at charge 1 and / or your misconduct at charge 2.

Background

You were referred to the NMC on 1 July 2023 by a member of the public. You were working at [PRIVATE] Hospital ('the Hospital'), employed by University Hospitals Sussex NHS Foundation Trust ('the Trust').

The referrer (Patient A) alleged that you [PRIVATE] (Patient B) and since then she and her husband were continually harassed by you.

On 2 September 2024, at [PRIVATE] Magistrates' Court, you were convicted of stalking involving serious alarm/distress, namely that between 1 October 2021 and 3 July 2023, at [PRIVATE] in the county of West Sussex pursued a course of conduct, namely you sent WhatsApp messages, sent letters, drove past Patient A's house and repeatedly accessed her personal NHS records, which amounted to stalking causing Patient A serious alarm/distress and had a substantial adverse effect on her day to day activities, when you knew or ought to have known that your course of conduct would cause alarm or distress. You pleaded guilty to this offence.

In addition to the above, Patient A made a Subject Access Request (SAR) to the Hospital, and it was discovered that between 8 December 2021 and 11 May 2023 you had accessed Patient B's medical records without his consent or clinical justification.

Decision and reasons on facts

You made full admissions to charges 1 and 2.

The panel therefore finds charges 1 and 2 proved in their entirety, by way of your admissions.

The panel had no questions for either of the NMC witnesses and therefore did not wish for them to be called.

You gave evidence under oath.

Fitness to practise

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.

The panel first considered whether your actions at charge 2 amount to misconduct and, if so, whether your fitness to practise is currently impaired by reason of your misconduct.

Furthermore, on the basis of your conviction (in charge 1), the panel considered whether your fitness to practise is currently impaired by reason of your conviction.

Submissions on misconduct

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

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

Mr Webb identified the specific and relevant sections of the Code that were breached as a result of your conduct: 5, 5.1, 5.2, 20, 20.2, 20.3, 20.4, 20.5.

Mr Webb submitted that your behaviour fell far below of what is expected of you as a registered nurse. He told the panel that patients' medical records contain information that is private, personal and very sensitive and should be treated in the utmost confidence. It was his submission that by accessing, on numerous occasions, Patient B's medical records without clinical justification, you breached Patient B's expectation that his private medical information would be retained securely and only accessed with proper reason. His submission was that this was an abuse of your privileged position as a nurse. Mr Webb therefore submitted that these actions fell short of the conduct expected of a registered nurse and so amount to misconduct.

You accepted that your actions amounted to misconduct.

Submissions on impairment

Mr Webb moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included

the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin), *Grant* [2011] EWHC 927 (Admin) and *Ronald Jack Cohen v General Medical Council* [2008] EWHC 581 (Admin).

Mr Webb referred to the judgment of Mrs Justice Cox in the case of *Grant*. Mr Webb took the panel through the three limbs set out by Dame Janet Smith in the Fifth Shipman Report and set out in the case of *Grant*:

- 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) *...'*

Mr Webb submitted that the first three limbs are engaged in this case and each question can be answered in the affirmative both to the past and the future.

In considering whether you pose a risk in the future, Mr Webb referred to the following factors set out in the case of *Cohen*:

- Is the behaviour easily remediable?
- Has it already been remedied?
- Is it highly unlikely to be repeated?

Mr Webb reminded the panel that you admitted the charges and accepted your failings. He stated that you are present and unrepresented at this hearing, despite

the impact this process has had on you emotionally. He submitted that you have given evidence expressing your remorse and made apologies outright, not only to Patient A and Patient B but also to the wider public. It was his submission that you have expressed regret for your actions, and you have acknowledged the impact that your behaviour has had on the reputation of the nursing profession and the individuals involved.

Mr Webb submitted that the above does not lessen the seriousness your failings; your actions had an impact on two individuals and resulted in a criminal conviction. He added that you offered no explanation as to why you accessed Patients B's medical records and, in your evidence, appear to contest that the actions that led to your conviction were deliberate. It was Mr Webb's submission that this indicates a lack of full insight.

Mr Webb submitted that you appear to accept that your [PRIVATE] may have had an impact on your behaviour. He put to the panel that it would be unfair to say that you are seeking to excuse your actions. However, in relation to your [PRIVATE], the panel does not have any detailed or independent information from the material time or regarding your [PRIVATE] as of now.

Mr Webb referred to the testimonial you provided from your line manager dated 5 September 2025. He stated that the testimonial is positive, makes comments in relation to your practice and your response to the regulatory concerns.

In relation to your misconduct in charge 2, it was Mr Webb's submission that there is no evidence of remediation. You have not provided certificates of any courses or training in patient confidentiality. Additionally, he submitted that there is little independent evidence to assure the panel that you have taken sufficient steps, or put measures in place, to prevent the repetition of the behaviour which led to your conviction, should similar circumstances arise in the future.

It was Mr Webb's submission that based on the severity of the behaviour which led to your conviction and the prolonged period over which your misconduct occurred, there remains a risk of repetition. Mr Webb further submitted your actions suggest

that there may be attitudinal concerns. He therefore submitted that a finding of impairment is necessary on the ground of public protection.

In considering public interest, Mr Webb referred to the case of *Grant* and quoted the following:

'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.'

Mr Webb submitted that the NMC appreciate your documentary and oral evidence because they are candid, reflective and remorseful. However, Mr Webb submitted that you are yet to address the concerns identified.

Mr Webb reminded the panel that the misconduct in this case involves the abuse of your position of privilege, by routinely accessing Patient B's medical records over a sustained period. He also asked the panel to bear in mind your behaviour led to a criminal conviction of stalking. It was Mr Webb's submission that to not make a finding of impairment would significantly undermine the public's trust and confidence in the nursing profession. He further submitted that a finding of impairment is necessary to mark the seriousness of your misconduct and conviction, and to uphold proper standards for members of the nursing profession.

For these reasons, Mr Webb invited the panel to make a finding of impairment on both public protection and public interest grounds.

You gave evidence under oath.

You told the panel that you have practised, kindly, safely and effectively as a registered nurse for over 30 years, with an unblemished record prior to these

concerns. You accepted that your fitness to practise was impaired at the time of the incidents. You expressed that it is difficult to demonstrate remediation when the concerns relate to information governance. However, you stated that, in the time since the incidents occurred, you have worked with your managers and the Trust to strengthen your practice in a way that is relevant to the charge 2. This includes reflections, study days and monthly meetings with your line manager.

You said that to be described as unkind, untrustworthy, or unprofessional is [PRIVATE]. It feels as though the years of safe and effective practice prior to the concerns no longer mean anything. You told the panel that you have reflected and learnt from this experience. You emphatically expressed that you are not liable to repeat the behaviour.

You acknowledged that, as a nurse, patients place their trust in you, and to have broken that trust is difficult for you to come to terms with. You stated that the conduct giving rise to the charges does not reflect your character or practice as a nurse. You expressed concern that there will be a lasting stigma as a consequence of your actions.

You reiterated that matters of the kind found proved will never happen again and informed the panel that you have been working for the Trust since the incidents occurred without concern, albeit with periods of [PRIVATE].

Mr Webb put questions to you based on your evidence.

In response to how you would demonstrate to patients and the public that you will not act in a similar way in the future, you stated that you have been working with patient records since April 2025 with no concerns.

The panel put questions to you based on your evidence.

With regard to how you would approach similar situations differently in the future, you said that you have had [PRIVATE], you have learnt coping strategies and identified some sources of help and support that you will draw on in the future if you

were in a stressful situation. You want to be able to cope and deal with stressful situations by approaching them differently in the future.

You talked the panel through your current role assessing patients' outcomes. You stated that you access 100s of patient records daily and the job requires you to be attentive and diligent. You are given patient names on paper and then you input their hospital numbers into the computer which leads you to the patients' medical information for you to make sure all the documentation is up to date. You added that the Ward manager or another colleague is always available if you needed support. However, it would be unworkable to be directly supervised in this role.

You have been in this current role since April 2025 and prior to this you were [PRIVATE]. Before your period of [PRIVATE], you worked in the clinic under supervision.

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

Decision and reasons on misconduct

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

The panel was of the view that 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:

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

To achieve this, you must:

- 5.1 respect a person's right to privacy in all aspects of their care*
- 5.2 make sure that people are informed about how and why information is used and shared by those who will be providing care'*

‘20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

*20.2 act with honesty and integrity at all times, treating people fairly
and without discrimination, bullying or harassment’*

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

The panel determined that you abused your position of trust by accessing Patient B’s medical records on numerous occasions over a sustained period, without his consent or clinical justification. The panel considered that people regard their medical information as sacrosanct and your actions were a violation of the trust the public put in you as a registered nurse.

The panel found that your actions at charge 2 fell seriously short of the conduct and standards expected of a registered nurse and amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of your misconduct and by reason of your conviction, your fitness to practise is currently impaired.

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 6 May 2025, 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 and to maintain professional boundaries. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In 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) ...'*

In considering charges 1 and 2, the panel found that limbs 'a', 'b' and 'c' are engaged. It determined that limb 'd' is not relevant in this case.

In relation to charge 1, the panel found that your actions in the past caused emotional harm to Patient A, as you were convicted of a course of conduct amounting to stalking, which caused Patient A serious alarm/distress. The panel

considered that your criminal conviction, together with the restraining order imposed against you, brought the nursing profession into disrepute. It further concluded that you remain liable to bring the nursing profession into disrepute in the future, as the consequences of your conviction are ongoing and the restraining order remains in place until October 2026. The panel also determined that you had previously breached the fundamental tenets of the nursing profession, in particular the obligation to promote professionalism and trust. However, with regard to whether you are liable to breach these tenets in the future, the panel considered this to be highly unlikely, noting that both your documentary and oral evidence demonstrated considerable insight and remorse.

In relation to charge 2, the panel found that your misconduct did not place patients at an unwarranted risk of harm, nor are liable to do so in the future. Your misconduct breached the fundamental tenets of the nursing profession and as a result, brought its reputation into disrepute. However, having considered your reflective statements alongside your oral evidence, the panel was satisfied that it is highly unlikely you will breach the fundamental tenets and bring the nursing profession into disrepute in the future.

The panel considered that you have demonstrated an exceptional level of insight, and that your expression of remorse has been consistent throughout this process. It noted that you made admissions at the outset of the hearing. The panel determined that you demonstrated an understanding of the emotional harm caused to Patient A, as well as recognition of why your actions in both charges were wrong and how they impacted negatively on the reputation of the nursing profession. In your oral evidence, you offered apologies to Patient A and Patient B, your family and the wider public in respect of charges 1 and 2 and expressed sincere regret. The panel was satisfied that you have clearly demonstrated how you would approach such a situation differently in the future and noted the resources you have engaged with, including [PRIVATE], to develop coping strategies for managing stressful situations.

In considering whether you have addressed the concerns, the panel carefully reviewed the evidence presented. It took into account the positive testimonials provided by your colleagues, your current line manager, patients and relatives of

patients in your care, which spoke highly of your professionalism, clinical ability and personal qualities. The panel also had regard to your reflective statements and your oral evidence, both of which it found to be candid and indicative of genuine remorse.

The panel noted that you are currently employed by the Trust as a Band 5 nurse, in a role assessing patient outcomes. In your oral evidence you explained that you are required to access patient medical records and other confidential information. You have undertaken these responsibilities unsupervised since you started in April 2025. The panel heard that you meet with your line manager on a monthly basis and that no concerns have been raised about your performance, conduct, or the manner in which you handle sensitive information. In the panel's view, this provides strong evidence that you have taken effective steps to address the issues underlying charge 2.

The panel considered that the incidents in question arose within a particular context and a set of personal circumstances that are no longer present, reducing the likelihood of recurrence.

The panel took account of your reflective statements, the positive testimonials, your ongoing practice, during which you have maintained the confidence of your employer and worked without incident, as well as the considerable level of insight and genuine remorse you have demonstrated throughout this process. Taken together, the panel is satisfied that there is little risk of repetition and that similar behaviour is highly unlikely to occur in the future. The panel therefore decided that a finding of impairment is not necessary on the ground of public protection.

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

In relation to charge 2, the panel found that public confidence in the nursing profession would not be undermined if a finding of impairment was not made

because you worked as a Healthcare Assistant (HCA) and then as a nurse for at least 18 months, albeit with [PRIVATE]. Your ability to work independently, while maintaining professional standards in relation to the management of patient information demonstrates that the risks previously identified have been appropriately managed.

In relation to charge 1, however, the panel determined that a finding of impairment on public interest grounds is necessary. Whilst the panel acknowledged the exceptional level of insight, reflection and genuine remorse you have demonstrated, the panel considered that the charge is serious, particularly given that your conduct resulted in a criminal conviction. The panel had regard to the fact that the purpose of a criminal sentence is to punish and that the considerations in regulatory proceedings are different. However, the imposition of a community order and a restraining order underlines the seriousness. In the panel's view, members of the public would be concerned if a nurse, who was convicted of stalking and had a restraining order against them were allowed to practise without restriction at this time. The panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case.

Having regard to all of the above, the panel was satisfied that, in relation to charge 1, your fitness to practise is currently impaired solely on the ground of public interest.

Sanction

The panel considered this case very carefully and has decided to make a conditions of practice order for a period of 12 months. The effect of this order is that your name on the NMC register will show that you are subject to a conditions of practice order and anyone who enquires about your registration will be informed of this order.

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

Submissions on sanction

Mr Webb informed the panel that in the Notice of Hearing, dated 28 July 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. During the course of the hearing, the NMC revised its proposal and submits that a suspension order for a period of 12 months is more appropriate in light of the panel's findings, your oral evidence and the testimonials you provided.

Mr Webb submitted that the principle established in the case of *Council for the Regulation of Health Care Professionals v General Dental Council v Fleischmann* [2005] EWHC 87 (Admin) is directly relevant to the circumstances of this case. He explained that Fleischmann relates to a registered professional who received a criminal conviction, was sentenced and their regulatory body imposed a sanction. The appeal determined that the registrant should not have been allowed to practise whilst they were still effectively under the sentence associated with the conviction they had received.

It was his submission that whilst you have received a conviction for a course of conduct that was sustained over a period of time, amounted to stalking and caused Patient A serious alarm/distress, the facts behind this conviction also involve a serious abuse of position, in that you accessed Patients A and B's confidential medical records on multiple occasions. However, he submitted that it is important to note that there are no ongoing public protection concerns. He quoted the panel's findings on impairment.

Mr Webb referred to *Bolton v The Law society* [1994] WLR 512 and quoted the following:

'The reputation of the profession is more important than the fortune of any individual member. A membership of a profession brings many benefits, but that is part of the price'

Mr Webb submitted that both *Fleischmann* and *Bolton* are relevant in these circumstances because this is a case that involves a criminal conviction, and the public interest is high.

Mr Webb referred to NMC guidance FTP-2c (Criminal convictions and cautions) and San-2 (Sanctions for particularly serious cases) and quoted the following:

‘The panel will have to decide how serious the behaviour is in the regulatory sense, by considering all the information before it...’

Mr Webb submitted that the aggravating factors are as follows:

- The conduct was repeated; you accessed records on more than one occasion
- Abuse of position
- Your behaviour led to a criminal conviction and sentencing which is ongoing and relates to a restraining order and community order
- The impact on Patient A

Mr Webb submitted that the mitigation factors are as follows:

- Full admissions
- Exceptional level of insight
- Reflection and genuine remorse
- Context in that the individuals involved were not your patients
- The incidents related to your private life
- You have been working as a nurse with access to patient records without issue

Mr Webb submitted that taking no action would be inappropriate in this case given the seriousness of your misconduct and conviction. He submitted that taking no further action would not uphold the public interest.

With regard to imposing a caution order, Mr Webb submitted that this matter is too serious and referred to the NMC guidance San-3b (Caution order), stating that a caution order may only be appropriate where, *'the case is at the lower end of the spectrum of impaired fitness to practise, however the Fitness to Practise committee wants to mark that the behaviour was unacceptable and must not happen again.'*

It was Mr Webb's submission that this case is not at the lower end of the spectrum of impaired fitness to practise and it would be neither proportionate nor in the public interest to impose a caution order in this case.

Turning to a conditions of practice order, Mr Webb put it to the panel that conditions would not adequately protect the public interest. Further, there are no specific areas of clinical practice identified that conditions could address. He submitted that this case relates to incidents in your private life which led you to abuse your position as a registered nurse and, behaviour that resulted in your conviction.

Mr Webb referred to the NMC guidance San-3d (Suspension order) and highlighted that the panel has not identified any harmful deep-seated attitudinal problems; there is no evidence of repetition of the behaviour since the incident; and the panel is satisfied that you have insight and do not pose a significant risk of repeating the behaviour. Mr Webb submitted that a suspension order would adequately address the public interest, as it would mark the conduct in a way that is commensurate with the seriousness of this case.

Mr Webb took the panel through the *Fleischmann* principle which establishes that a registrant convicted of a serious criminal offence should not be permitted to resume practice until completion of their sentence, unless there are plainly justifying circumstances. Looking at the specifics of this case and cross referencing with the case of *Fleischmann*, Mr Webb reminded the panel of the community order still in place until 28 October 2025. The panel has heard that this has not yet been complied with but there are matters relating to your [PRIVATE] that have prevented this from happening and that alternative arrangements may be put in place to allow you to comply with the order in another way, for instance, by way of a fine. Mr Webb added that there is also the restraining order that runs until 28 October 2026.

Mr Webb submitted that, taking into account the appeal period, a 12-month suspension order would expire approximately two weeks before the restraining order is due to expire. Consequently, imposing a suspension order would potentially be seen as departing from the principles of *Fleischmann*. He asked the panel to consider NMC guidance San-2 and quoted the following:

'The law says that, when making its decision on sanction, the Fitness to Practise Committee should consider:

- the fact that a nurse, midwife or nursing associate convicted of a serious offence is still serving their sentence (even if on probation), and*
- whether the nurse, midwife or nursing associate should be able to restart their professional practice before they have completed their sentence*

In general, the rule is that a nurse, midwife or nursing associate should not be permitted to start practising again until they have completed a sentence for a serious offence. This is a general rule that it would be right for the Fitness to Practise Committee to consider, but it does not mean that the Committee has no choice but to remove the nurse, midwife or nursing associate from the register permanently.'

Mr Webb submitted that it has been clarified in subsequent cases that the *Fleischmann* principle is not a hard rule. He reminded the panel that the overriding principle of the Fitness to Practice Committee's decision is proportionality. He submitted that, in this case, the panel needs to be satisfied that there are good reasons to depart from what is set out in *Fleischmann*. It was his submission that a suspension order for 12 months is the appropriate sanction to reflect what was a serious criminal conviction resulting in a sentence.

Mr Webb submitted that a striking-off order is not necessary given the circumstances of the case and the evidence you put forward. He reminded the panel that a key consideration when deciding to impose a striking off order is 'whether the conduct is fundamentally incompatible with remaining on the register'. Mr Webb highlighted that

people make themselves vulnerable when they speak to healthcare professionals and when this information is used inappropriately or, in this case, criminally, it significantly undermines the public's trust in healthcare professions. However, given the context of this case, your genuine remorse and insight, Mr Webb submitted that your conviction is not fundamentally incompatible with remaining on the register. He made his submission on the basis that the events which led to your conviction occurred in your private life and outside of your practice. Albeit there was an abuse of trust and position in accessing Patient A's records, Patient A was never a patient in your care.

Mr Webb invited the panel to impose a 12-month suspension order as it is necessary to mark the importance of maintaining public confidence in the profession and will send a clear message to the public about the standard of behaviour required of a registered nurse and will ensure no further reputational damage occurs to the nursing profession.

You told the panel that a suspension order would have the same effect on your life as a striking-off order. You said that you are [PRIVATE] and you need to be able to work as much as you can. Imposing a suspension order would take away your income and [PRIVATE].

You said that a suspension order will not provide you with an opportunity to strengthen your practice. You told the panel that you will lose your job within the Trust because you are "*clinging by the skin of your teeth as it is*" due to the period of [PRIVATE] absence. You informed the panel that you [PRIVATE], which prevented you from carrying out physical duties expected in your role. These include assisting patients onto the scales and exercise bikes, taking bloods and supporting patients when moving from their chairs. You stated that you have already received a warning from the Trust and believe that dismissal on the grounds of being unable to fulfil your role is likely. You expressed concern that if a suspension order is imposed, it will most likely result in the termination of your employment. This, in turn, would place you in [PRIVATE].

You informed the panel that in October 2026, it will be five years since this matter was referred to the NMC. You accept the seriousness of the misconduct and conviction but expressed that five years seems like a long time for one mistake and it seems disproportionate in view of an unblemished nursing career of over 30 years, prior to these incidents.

You stated that you have been working as a registered nurse for the past two years, albeit with [PRIVATE] and restrictions on your practice. You outline the conditions contained in the interim conditions of practice order to the panel and confirmed that you have complied with the conditions since they were imposed. You expressed that the condition restricting your practice to one substantive employer was detrimental to you because your [PRIVATE] as your job at the Trust was a part time contract for [PRIVATE] a week. Prior to this you had three jobs to accumulate over [PRIVATE] to receive the income you needed. These included your role at the Trust, running a wound clinic in GP practice and giving Covid vaccinations on the weekend.

You explained that you contacted the NMC on numerous occasions to request a review of the interim conditions of practice order after [PRIVATE], but there was no reply. It has been nearly two years since, [PRIVATE]. If you cannot work, you will not be able to make a start on [PRIVATE]. You stated that you have to work harder now more than ever as you are [PRIVATE]. You reiterated that you understand the seriousness of the concerns identified but asked the panel to consider that it was a mistake in the context of an otherwise unblemished career.

You addressed Mr Webb's submission about the restraining order and clarified that this is a restraining order from someone you have never approached or spoken to.

The panel put questions to you based on your submissions.

In response to a question about your community order, you stated that following the court case you were given a probation officer and were going to be assigned to a charity shop to fulfil your 60 hours of unpaid work. However, given your [PRIVATE] your probation officer determined that it would be unworkable for you to be standing all day. You said that your probation officer told you that she would write to the court

for an alternative sentence which would likely be a fine that would be taken out of your wages. You regularly email her as the end of your sentencing is fast approaching on 28 October 2025. However, you do not want to badger your probation officer as you trust that she is competent.

You said that you do not see your probation officer anymore. You saw her for around five weeks for your 20 Rehabilitation Activity Requirement (RAR) days, but after that your probation officer said it seemed futile to keep having meetings when there was nothing more to discuss.

You explained to the panel that you were put in your current role to ensure would not have to do any work that would [PRIVATE], as the workload in your previous role had changed because of staff shortage and you were required to assist with getting patients on and off the scales and the couches etc. You stated that you would like to get a new job working from home as a Disability Assessor, to help you manage your [PRIVATE]. You informed the panel that you were offered two of these roles in the course of this NMC process, however, the offers were retracted when they became aware that the NMC investigation was ongoing.

Given that you referred to your interim conditions of practice order, Mr Webb made the panel aware of the circumstances. He submitted that an interim suspension order was imposed originally and then changed to an interim conditions of practice order. At present, there are two conditions and there is no indication that the order has not been complied with. He reminded the panel that interim orders are made before findings of fact, and this is a different situation given the panel's finding of impairment. Mr Webb reiterated that a conditions of practice order is not appropriate in this case and submitted that the interim conditions of practice order reflected what was a different time in the lifespan of this case.

The panel accepted the advice of the legal assessor which included reference to the NMC guidance San-1 (Factors to consider before deciding on sanction) and San-2 (Sanctions for particularly serious cases). The legal assessor also referred to relevant judgements, including *Fleischmann* and *Professional Standards Authority (PSA) v General Dental Council (GDC)* [2024] EWHC 243 (Admin).

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:

- The conduct was repeated in that you accessed records on more than one occasion
- Abuse of position
- Your behaviour led to a criminal conviction and sentencing which is ongoing and relates to a restraining order and community order
- The impact on Patient A

The panel also took into account the following mitigating features:

- Full admissions
- Exceptional level of insight
- Worked since incidents with no concerns
- Engaged with the NMC throughout
- Personal mitigation including [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, 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 and conviction were not at the lower end of the spectrum and that a caution order would not meet the public interest and maintain public confidence in the profession.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular:

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- *No evidence of general incompetence;*
- *Potential and willingness to respond positively to retraining;*
- *The nurse or midwife has insight into any health problems and is prepared to agree to abide by conditions on medical condition, treatment and supervision;*
- *Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- *The conditions will protect patients during the period they are in force; and*
- *Conditions can be created that can be monitored and assessed.*

The panel determined that it would be possible to formulate appropriate and practical conditions which would address the failings highlighted in this case. The panel accepted that you would be willing to comply with conditions of practice as you have complied with the existing interim conditions of practice order.

The panel appreciate that, by imposing a 12-month conditions of practice order, you will be able to practice as a registered nurse before the community order and the restraining order expire respectively.

The panel had regard to the NMC guidance San-2 and the cases of *Fleischmann* and *PSA v GDC*. The panel bore in mind that the general principle is that a nurse should not be permitted to practice before serving their sentence, but it determined that this is not a hard rule. However, it also had regard to the principle as stated by Mr Justice Sweeting in the case of *PSA v GDC*. He stated, '*the Fleischmann case cannot be regarded as if it were a rule. It is a principle not a rule.*' He emphasised that '*the overarching requirement is to impose a sanction which is just, proportionate and only that which is necessary to maintain public confidence in the profession.*' The panel concluded that there are sufficient circumstances in this particular case to enable it to depart from the principle set out in *Fleischmann*.

The panel decided that in light of the particular circumstances of this case, including mitigating factors, there are good reasons to depart from the general principle, as set out in *Fleischmann*, having regard to the case of *PSA v GDC*. In reaching its decision, the panel took into account your exceptional level of insight, genuine remorse, the absence of any ongoing risk to the public, your 30 years career, your unblemished practice since the incidents occurred and your compliance with the existing interim conditions of practice order. The panel also noted the circumstances that gave rise to this case are highly specific, no longer exist, and involved individuals who were not your clinical patients. Accordingly, the panel concluded that the overarching requirement is that any sanction must be proportionate, and it determined that the appropriate and proportionate sanction is a conditions of practice order.

The panel was of the view that to impose a suspension order would be wholly disproportionate and would not be a reasonable response in the circumstances of your case because the panel has identified the least restrictive sanction that satisfies public confidence in the profession, taking into account your exceptional insight and genuine remorse and the fact that there are no public protection issues.

Having regard to the matters it has identified, the panel has concluded that a conditions of practice order will mark the importance of maintaining public confidence in the profession and will send to the public and the profession a clear message about the standards of practice required of a registered nurse.

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The panel determined that the following conditions are appropriate and proportionate in this case:

For the purposes of these conditions, 'employment' and 'work' mean any paid or unpaid post in a nursing, midwifery or nursing associate role. Also, 'course of study' and 'course' mean any course of educational study connected to nursing, midwifery or nursing associates.

1. You must not access patient records in the course of your work as a nurse or otherwise unless it is required for your clinical work.
2. You must undertake 'Confidentiality' and 'Information Governance' training. You must provide evidence that the training has been completed to your NMC case officer seven days prior to any review meeting or hearing.
3. You must keep the NMC informed about anywhere you are working by:
 - a) Telling your case officer within seven days of accepting or leaving any employment.
 - b) Giving your case officer your employer's contact details.

4. You must keep the NMC informed about anywhere you are studying by:
 - a) Telling your case officer within seven days of accepting any course of study.
 - b) Giving your case officer the name and contact details of the organisation offering that course of study.
5. You must immediately give a copy of these conditions to:
 - a) Any organisation or person you work for.
 - b) Any agency you apply to or are registered with for work.
 - c) Any employers you apply to for work (at the time of application).
 - d) Any establishment you apply to (at the time of application), or with which you are already enrolled, for a course of study.
6. You must tell your case officer, within seven days of your becoming aware of:
 - a) Any clinical incident you are involved in.
 - b) Any investigation started against you.
 - c) Any disciplinary proceedings taken against you.
7. You must allow your case officer to share, as necessary, details about your performance, your compliance with and / or progress under these conditions with:
 - a) Any current or future employer.
 - b) Any educational establishment.
 - c) Any other person(s) involved in your retraining and/or supervision required by these conditions

The period of this order is for 12 months.

Before the order expires, a panel will hold a review hearing to see how well you have complied with the order. At the review hearing the panel may revoke the order or any condition of it, it may confirm the order or vary any condition of it, or it may replace the order for another order.

This will be confirmed to you in writing.

Interim order

Mr Webb submitted that the NMC did not wish to make an application for an interim order.

In all the circumstances, the panel did not to impose an interim order.

That concludes this determination.