

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

**Substantive Hearing
Monday, 27 April 2026**

Virtual Hearing

Name of Registrant:	Lian Kenny
NMC PIN:	15I0119E
Part(s) of the register:	RNA: Adult nurse, level 1 – 07 September 2015
Relevant Location:	Knowsley Metropolitan Borough
Type of case:	Misconduct
Panel members:	Michelle Lee (Chair, Registrant member) Karen Gardiner (Registrant member) Ceri Edwards (Lay member)
Legal Assessor:	Cyrus Katrak
Hearings Coordinator:	Max Buadi
Nursing and Midwifery Council:	Represented by Selena Jones, Case Presenter
Mrs Kenny:	Not present and not represented
Consensual Panel Determination:	Accepted
Facts proved:	Charges 1, 2 and 3
Facts not proved:	None
Fitness to practise:	Impaired
Sanction:	Suspension order (6 months)

Interim order:

No order

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

At the outset of the hearing, Ms Jones made a request that parts of this case be held in private on the basis that proper exploration of Mrs Kenny's case involves matters in relation to her health and personal life. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel noted that within the Consensual Panel Determination (CPD) Mrs Kenny and her representative indicated that they supported 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 reference to Mrs Kenny's health and personal life, the panel determined to hold those parts of the hearing in private as and when such issues are raised.

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Kenny was not in attendance and that the Notice of Hearing letter had been sent to Mrs Kenny's registered email address by secure email on 23 March 2026.

Further, the panel noted that the Notice of Hearing was also sent to Mrs Kenny's representative at Unison on 23 March 2026.

Ms Jones, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, dates and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mrs Kenny's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all of the information available, the panel was satisfied that Mrs Kenny has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mrs Kenny

The panel next considered whether it should proceed in the absence of Mrs Kenny. It had regard to Rule 21 and heard the submissions of Ms Jones.

Ms Jones informed the panel that a provisional Consensual Panel Determination (CPD) agreement had been reached and signed by Mrs Kenny on 14 April 2026. She submitted that within the CPD provisional agreement, Mrs Kenny is aware that the hearing will be taking place today and is content for it to proceed in her absence. She submitted that Mrs Kenny has voluntarily absented herself and there is no application to adjourn.

Ms Jones invited the panel to continue in the absence of Mrs Kenny.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised “with the utmost care and caution”

The panel has decided to proceed in the absence of Mrs Kenny. In reaching this decision, the panel has considered the submissions of Ms Jones, the representations made on Mrs Kenny’s behalf, and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- Mrs Kenny has engaged with the NMC and has signed a provisional CPD agreement which is before the panel today;
- Within the provisional CPD agreement, the panel has noted that Mrs Kenny had informed the NMC that she will not be attending the hearing and is content for it to proceed in her absence;
- There is no reason to suppose that adjourning would secure her attendance at some future date; and
- There is a strong public interest in the expeditious disposal of the case.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mrs Kenny.

Details of charge

That you, a registered nurse:

1. Between 24 August 2020 and 4 October 2021 received £5,993.51 in sick pay from North West Care NHS Foundation Trust (later merged with Mersey Care NHS Foundation Trust) whilst also working for Bridgewater Community Healthcare NHS Trust on one or more of the dates as set out in Schedule 1.

2. Between 24 August 2020 and 4 October 2021, on one or more of the dates set out in Schedule 1, worked whilst unfit to do so.
3. Your conduct at Charge 1 was dishonest in that you knowingly worked for Bridgewater Community Healthcare NHS Trust while also receiving sick pay from Mersey Care NHS Foundation Trust.

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

Schedule 1

24 August 2020
20 September 2020
21 September 2020
19 November 2020
20 November 2020
21 November 2020
22 November 2020
23 November 2020
15 December 2020
18 December 2020
23 December 2020
28 December 2020
29 December 2020
30 December 2020
4 February 2021
5 February 2021
6 February 2021
7 February 2021
11 February 2021

12 February 2021
20 February 2021
21 February 2021
4 May 2021
49 dates between 10 June 2021 and 26 August 2021
28 September 2021
29 September 2021
30 September 2021
1 October 2021
2 October 2021
3 October 2021
4 October 2021

Consensual Panel Determination

At the outset of this hearing, Ms Jones informed the panel that a provisional agreement of a Consensual Panel Determination (CPD) had been reached with regard to this case between the NMC and Mrs Kenny.

The agreement, which was put before the panel, sets out Mrs Kenny's full admissions to the facts alleged in the charges, that her actions amounted to misconduct, and that her fitness to practise is currently impaired by reason of that misconduct. It is further stated in the agreement that an appropriate sanction in this case would be suspension order for a period of six months without review.

The panel has considered the provisional CPD agreement reached by the parties.

That provisional CPD agreement reads as follows:

'The Nursing & Midwifery Council ("the NMC") and Lian Kenny ("the Registrant"), PIN 15I0119E (collectively "the Parties") agree as follows:

1. *The Registrant is aware of the CPD hearing. The Registrant does not intend on attending the hearing and is content for it to proceed without her or her representative being present at the hearing unless required. The Registrant, via her representative, will be available by telephone/video link should clarification on any point be required, or should the panel wish to make other amendments to the provisional agreement that are not agreed by the Parties.*
2. *The Registrant understands that if the panel proposes to impose a greater sanction or make other amendments to the provisional agreement that are not agreed by the Parties, the panel will refer the matter to a new substantive hearing.*
3. *The Parties request that parts of the hearing and the CPD are considered in private pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended ("the Rules"). Whilst 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.*
4. *Reference will be made within the CPD to matters relating to the Registrant's health and personal family life and the Parties are in agreement that such matters should be considered in private in order to protect the Registrant's interests. Accordingly, any such sensitive matters have been highlighted as **PRIVATE** within this CPD so that they can be removed from any public determination and/or transcript of these proceedings.*

The charges

5. *The Registrant admits the following charges:*

That you, a registered nurse:

1. *Between 24 August 2020 and 4 October 2021 received £5,993.51 in sick pay from North West Care NHS Foundation Trust (later merged with Mersey*

Care NHS Foundation Trust) whilst also working for Bridgewater Community Healthcare NHS Trust on one or more of the dates as set out in Schedule 1.

- 2. Your conduct at Charge 1 was dishonest in that you knowingly worked for Bridgewater Community Healthcare NHS Trust while also receiving sick pay from Mersey Care NHS Foundation Trust.*

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

Schedule 1

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The facts

6. *The Registrant appears on the register of nurses, midwives and nursing associates maintained by the NMC as a Registered Nurse - Adult and has been on the NMC register since 07 September 2015.*
7. *On 18 November 2021, Ms Maria Tyson, Head of Nursing at Mersey Care NHS Foundation Trust (“the Trust”) made a referral to the NMC regarding the Registrant. The Registrant worked at the Trust from 11 December 2018 until 31 October 2021 and the concerns relate to the period August 2020 to October 2021, whilst the Registrant was employed as Community Nurse Team Leader at the Trust.*
8. *The referral set out that during the Registrant’s employment at the Trust she was also employed Bridgewater Community Healthcare NHS Foundation Trust (“Bridgewater”) via Search agency. It was alleged that, on 30 September 2021, a member of staff reported that the Registrant had worked at Bridgewater while also signed off on paid sick leave from the Trust.*
9. *An anti-fraud investigation was subsequently carried out by Mersey Internal Audit Agency (“MIAA”) which concluded on 20 November 2023. It was found that the*

Registrant had worked for Bridgewater on dates where she had been on sick leave from the Trust and had received sick pay from the Trust in the sum of £5,993.51. No criminal action was recommended by MIAA on the basis that the overpayment was relatively low and could be repaid (the Registrant did subsequently fully repay the overpayment to the Trust). The MIAA investigation also noted that Search agency had been able to offer work to the Registrant [PRIVATE].

10. *All facts as detailed above and in the charges are admitted by the Registrant.*

11. *In relation to the dishonesty in this case (referred to at charge 2), the Parties had regard to the case of Ivey v Genting Casinos (UK) Ltd t/a Crockfords [2017] UK SC 67. Namely, the test set out in that case which asks: (a) what was the defendant's actual state of knowledge or belief as to the facts; and (b) was his/her conduct dishonest by the standards of ordinary decent people?*

Misconduct

12. *The Parties agree that the facts amount to misconduct.*

13. *In the case of Roylance v General Medical Council (No.2) [2000] 1 AC 311, Lord Clyde stated that:*

'misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by the medical practitioner in the particular circumstances'.

14. *The Parties agree that the Registrant's conduct fell seriously short of the standards of behaviour expected of Registered Nurses. Moreover, the Registrant accepts that her actions breached the following paragraphs of the 2015 NMC Code of Conduct:*

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

15. It is accepted that there is no evidence that patients suffered any harm as a result of the Registrant's actions. Furthermore, there are no identified clinical concerns in this case.

16. However, in receiving sick pay from the Trust whilst signed off from work but continuing to practise as a Registered Nurse for a different organisation, the Registrant acted dishonestly for personal financial gain. The Parties agree that such conduct falls far below the standards expected of a registered nurse. Nurses occupy positions of trust and acting in such a way clearly undermines public confidence in the profession. The Registrant's actions referred to in the charges would be considered deplorable by fellow practitioners and amount to misconduct.

Impairment

17. The Registrant's fitness to practise is currently impaired by reason of her misconduct.

18. The NMC's guidance on impairment [Reference: DMA-1] explains that impairment is not defined in legislation but is a matter for the Fitness to Practise Committee to decide. This involves a consideration of both the nature of the concern and the public interest.

19. The Parties agree that consideration of the nature of the concern involves looking at the factors set out by Dame Janet Smith in her Fifth Report from Shipman, approved in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) by Cox J, as follows;

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 professions 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 professions; and/or*
- d) *Has in the past acted dishonestly and/or is liable to act dishonestly in the future?*

20. *The Parties agree that limbs (b) to (d) above are engaged in this case.*

21. *The charges involve concerns about the Registrant's honesty and trustworthiness as a registered professional. Nurses occupy positions of trust in society and the public should be able to trust nurses and expect that they will act with honesty and integrity at all times. The Registrant's dishonest behaviour has undermined public confidence in the nursing profession. The Registrant accepts that her conduct fell far below the standards expected of a registered nurse. The Registrant accepts that she has brought the reputation of the nursing profession into disrepute, has breached fundamental tenets of the profession, and has acted dishonestly.*

22. *In considering the question of whether the Registrant's fitness to practise is currently impaired, the Parties have considered Cohen v General Medical Council [2008] EWHC 581 (Admin) in which the court set out three matters which it described as being 'highly relevant' to the determination of the question of current impairment;*

- 1. *Whether the conduct that led to the charge(s) is easily remediable*
- 2. *Whether it has been remedied*
- 3. *Whether it is highly unlikely to be repeated*

23. *Dishonest behaviour amounts to conduct which, ordinarily, could not be described as easily remediable. However, in this case the Parties agree there are no harmful*

deep seated attitudinal problems on the part of the Registrant and she has fully accepted her failings. The Parties agree that, in the particular circumstances of this case, the Registrant's conduct is remediable.

Remorse, reflection, insight, training and strengthening practice

*24. The Registrant has fully repaid the overpayment to the Trust. The Registrant has undertaken reflection and demonstrated insight into her failings and remorse during her full engagement with the NMC during the lifespan of this case. The Registrant has provided a number of documents to be considered by the Panel including a written reflection dated 26 February 2026, evidence of a course undertaken in Probity and Ethics in February 2023 and a number of positive references and testimonials. [These documents are attached to this CPD as **Appendix 1**].*

25. Within her written reflective piece, the Registrant provided context regarding her personal life and health present at the time of the misconduct.

26. [PRIVATE]

27. The Registrant also sets out the difficulties she was encountering at the time with the Trust who she felt were unsupportive in relation to matters [PRIVATE].

28. Whilst setting out the above factors, the Registrant is clear that she does not seek to excuse her actions which amounted to misconduct. The Registrant has stated that she deeply regrets those actions and recognises that she is accountable for her failings. The Registrant has also set out her understanding of her responsibilities in line with the Code and acknowledged that her behaviour could affect the trust that patients and the public place in nurses. The Registrant also reflects that her actions could have affected her team at the Trust.

29. Within her reflective statement the Registrant sets out the learning obtained via her completion of a Probity and Ethics course for Healthcare Professionals which, the Registrant states, transformed her understanding of professional responsibility. The

Registrant also details the learning gained from attending the course “Ensuring a Similar Healthcare Mistake or Misconduct Won’t Happen” in January 2026.

30. *The Registrant concludes her February 2026 reflective piece as follows:*

“I deeply regret my lapse in judgement. It has been one of the most challenging periods of my professional life, but it has also been one of the most defining in terms of growth. I want to assure the NMC that I do not see myself as a nurse who made a harmless mistake. I see myself as a nurse who failed to show courage when it mattered and who has worked deliberately to ensure that failure is not repeated. My integrity now feels more conscious, more deliberate, and more resilient than before. I have learned that professionalism is not about perfection; it is about accountability. I respectfully ask the panel to consider not only the mistake I made, but the person I have become as a result of confronting it. I remain committed to upholding the standards of the NMC Code not simply because they are required, but because they reflect the nurse I intend to be.”

31. *The Registrant is currently employed solely with Alamaz Limited as Clinical Lead for their vaccination service. The Registrant has provided a number of positive references and testimonials from previous colleagues and past employers as well as from her current employer, Ali Dalal (Director and Superintendent Pharmacist at Alamaz), dated 31 March 2026.*

Public protection impairment

32. *It is noted that the Registrant is otherwise of good character, she has not been referred to the NMC aside from the matters arising in this case and there are no concerns identified in this case relating to the Registrant’s clinical practice.*

33. *The Registrant has demonstrated an acceptance of personal responsibility as well as an understanding of the seriousness of her actions. The Registrant has demonstrated insight into the wider impact dishonesty has on patients as well as the wider reputation of the profession.*

34. *The Registrant has been practising without incident since the misconduct and has provided a positive reference from her current employer who state they are fully aware of the concerns and who describe the Registrant as “open, honest and transparent”.*

35. *In the circumstances, the Parties agree that the risk of repetition of the misconduct found in this case is minimal. Therefore, a finding of current impairment is not required on public protection grounds.*

Public interest impairment

36. *The Parties agree that a finding of impairment is necessary on public interest grounds. Such a finding is required to declare and uphold proper professional standards and protect the reputation of the nursing profession. This is in accordance with the comments of Cox J in Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) at the following paragraphs:*

“71. It is essential, when deciding whether fitness to practise is impaired, not to lose sight of the fundamental considerations ... namely, the need to protect the public and the need to declare and uphold proper standards of conduct and behaviour so as to maintain public confidence in the profession ...

74. ... 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...

- 101. The Committee should therefore have asked themselves not only whether the Registrant continued to present a risk to members of the public, but whether the need to uphold proper professional standards and public confidence in the Registrant and in the profession would be undermined if a finding of impairment of fitness to practise were not made in the circumstances of this case.”*
- 37. Consideration of the public interest requires the Fitness to Practise Committee to decide whether a finding of impairment is needed to uphold proper professional standards and conduct and/ or to maintain public confidence in the profession.*
- 38. In upholding proper professional standards and conduct and maintaining public confidence in the profession, the Fitness to Practise Committee will need to consider whether the concern is easy to put right. For example, it might be possible to address clinical errors with suitable training. A concern which hasn't been put right is likely to require a finding of impairment to uphold professional standards and maintain public confidence.*
- 39. However, there are types of concerns that are so serious that, even if the professional addresses the behaviour, a finding of impairment is required either to uphold proper professional standards and conduct or to maintain public confidence in the profession.*
- 40. The Parties agree that given the nature and seriousness of the Registrant's conduct, which involves repeated dishonest conduct for personal financial gain, a finding of impairment is necessary in the public interest both to uphold proper standards of conduct and to uphold confidence in the nursing profession and the regulator.*
- 41. Without such a finding being made, the Parties agree that public confidence in both the profession and the regulator would be undermined and it would convey a poor message in relation to the standards to be expected of nurses and midwives.*

42. *In summary, the Parties agree that the Registrant's fitness to practise is impaired solely on public interest grounds.*

Sanction

43. *The appropriate sanction in this case is a **suspension order for a period of 6 months without review.***

44. *The Parties considered the NMC Sanctions Guidance [Reference: SAN-2], bearing in mind that it provides guidance not firm rules. The Panel will be aware that the purpose of sanctions is not to be punitive but to protect the public interest. Sanctions may, however, have a punitive effect.*

45. *The Panel should consider any aggravating features of the case, which the Parties have identified as being the significant period of repeated dishonesty which was for personal gain.*

46. *The Panel should also have careful regard to any mitigating features of the case, which the Parties have identified as follows:*

- *The money overpaid to the Registrant by the Trust was repaid by the Registrant in full.*
- *The Registrant has demonstrated remorse and insight through developed reflection and relevant training.*
- *The Registrant's clinical practice has been commended and positive references have been provided speaking highly about the Registrant's character.*

47. *In considering the sanctions available in ascending order, the Parties agree that taking no further action in this case would not be sufficient to maintain public confidence in light of the serious nature of the misconduct.*

48. **Caution order:** *Similarly, given the serious nature of the misconduct, the Parties agree that a caution order would also not be sufficient to maintain public confidence.*

49. **Conditions of practice order:** *There are no clinical concerns in this case and therefore no areas of the Registrant's practice in need of monitoring or improvement. The Parties also agree that the wider public interest would not be satisfied by the imposition of a conditions of practice order due to the serious and repeated nature of the dishonest misconduct.*

50. **Suspension order:** *The Parties agree that given the nature and seriousness of the Registrant's conduct, a suspension order is necessary in this case to address the public interest, maintain professional standards and to mark the seriousness of the Registrant's conduct. Because of the importance of honesty to a nurse or midwife's practice, dishonesty will always be considered a serious regulatory matter.*

51. *The Parties had regard to the NMC sanction guidance on cases which involve dishonesty [Reference: SAN-4]:*

Generally, the forms of dishonesty which are most likely to require consideration of striking-off will involve (but are not limited to):

- *personal or financial gain from a breach of trust*

52. *The Parties agree that the Registrant's dishonest conduct relates to personal financial gain from a breach of trust and was not a one-off incident. However, the same guidance also states:*

Professionals who have behaved dishonestly can engage with the Committee to:

- *show that they feel remorse*
- *recognise that they acted in a dishonest way*

- *explain, with evidence, how this will not happen again.*

53. *The NMC guidance in relation to when suspension orders may be appropriate [Reference SAN-2d], states as follows:*

- *the charges found proved are at the most serious end of the spectrum and call into question the professional's suitability to continue practising, either currently or at all*
- *what went wrong is so serious that public confidence in the profession and professional standards could not be maintained if the professional were able to continue practising without stopping for a period of time*
- *despite the seriousness of what happened, the professional has engaged in the proceedings and has shown at least some meaningful insight which evidences a realistic possibility that they will continue to develop this insight, address their concerns and return to practice.*

54. *The Registrant has provided a detailed reflective piece fully accepting the concerns and the impact of dishonest behaviour in a nursing context. The Registrant has also provided evidence of engaged learning undertaken in relation to probity and ethics and explained how the failings will not occur again in the future. The Registrant has provided positive testimonials, including from her current employer, who are aware of the failings but speak highly of the Registrant and confirm that they have no concerns about the Registrant's practice.*

55. *The Parties have also taken into account that no patients came to harm as a result of the Registrant's actions. There has been no evidence of further dishonest behaviour following the Registrant's referral to the NMC. It is significant that the Registrant has since demonstrated good practice alongside remorse and reflection regarding her misconduct. The Registrant's career as a Registered Nurse is*

otherwise unblemished and the reflection and insight the Registrant has demonstrated negates a finding of any harmful deep-seated personality or attitudinal problems.

56. In light of all these factors, the Parties agree that the likelihood of the Registrant repeating similar dishonest behaviour in the future is low.

57. In relation to a striking-off order, taking into account that the Registrant's dishonesty did not pose a direct risk to patients and has been fully reflected upon by the Registrant, the Parties agree that the Registrant's conduct is not fundamentally incompatible with continued registration.

58. The Parties agree that the serious features of the case can be appropriately recognised by the length of the suspension order, which should be for 6 months without review upon expiry. This particular sanction will serve to uphold public confidence in the profession and will allow a Registrant who has demonstrated insight and remorse to return to practice as swiftly as is appropriate.

59. The Parties agree that a review of the suspension order prior to its expiry is not necessary for the following reasons:

- There are no ongoing concerns regarding the Registrant's clinical conduct*
- There are no live public protection concerns identified in this case*
- The Registrant has demonstrated significant reflection and insight into her misconduct*

60. There is also a public interest in an otherwise experienced nurse, who has fully engaged and reflected and remediated their misconduct, returning to practice.

61. *The Parties therefore agree that, upon the conclusion of the 6 month period of suspension, the public interest identified in this case will have been appropriately and adequately served.*

Maker of allegation comments

62. *TBC*

Interim order

63. *Finally, the Parties agree that an interim order is not required as there are no live public protection concerns in this case.*

The Parties understand that this provisional agreement cannot bind a panel, and that the final decision on findings impairment and sanction is a matter for the panel. The Parties understand that, in the event that a panel does not agree with this provisional agreement, the admissions to the charges and the agreed statement of facts set out above, may be placed before a differently constituted panel that is determining the allegation, provided that it would be relevant and fair to do so.'

Here ends the provisional CPD agreement between the NMC and Mrs Kenny. The provisional CPD agreement was signed by Mrs Kenny and the NMC on 14 April 2026.

Decision and reasons on the CPD

The panel decided to accept the CPD.

The panel heard and accepted the legal assessor's advice. Ms Jones referred the panel to the 'NMC Sanctions Guidance' (SG) and to the 'NMC's guidance on Consensual Panel Determinations'. She reminded the panel that they could accept, amend or outright reject the provisional CPD agreement reached between the NMC and Mrs Kenny. Further, the

panel should consider whether the provisional CPD agreement would be in the public interest. This means that the outcome must ensure an appropriate level of public protection, maintain public confidence in the professions and the regulatory body, and declare and uphold proper standards of conduct and behaviour.

The panel noted that Mrs Kenny admitted the facts of the charges. Accordingly, the panel was satisfied that the charges are found proved by way of Mrs Kenny's admissions, as set out in the signed provisional CPD agreement.

The panel were informed that the views of the referrer were not sought.

Decision and reasons on misconduct

The panel noted that Mrs Kenny accepts that her failings amounted to misconduct (although this does not bind the panel). Whilst acknowledging the agreement between the NMC and Mrs Kenny, the panel has exercised its own independent judgement.

In respect of misconduct, having considered the proven charges individually, the panel determined that Mrs Kenny's actions, as set out in the charges found proved, fell seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

In the panel's view, Mrs Kenny breached a fundamental tenet of the nursing profession, namely honesty. Although this was a single course of dishonest conduct, it occurred over a significant period of 14 months. Additionally, the panel considered that the actions referred to in the charges would be regarded as deplorable by fellow practitioners and therefore amounted to misconduct.

The panel endorsed paragraphs 12 to 16 of the provisional CPD agreement. The panel also agreed with the specified breaches of *The Code: Professional standards of practice and behaviour for nurses and midwives* (2015) ("the Code"), namely, paragraphs 20.1 and 20.2 as outlined in paragraph 14 of the provisional CPD agreement.

Decision and reasons on impairment

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

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which states:

'The question that will help decide whether a professional's fitness to practise is impaired is:

"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"

If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired.'

The Panel found that limbs (b), (c), and (d) of *Grant* were engaged. It was of the view that the public should be able to trust nurses and expect them to act with honesty and integrity at all times. In the panel's view, Mrs Kenny brought the reputation of the nursing profession into disrepute, breached fundamental tenets of the profession, and acted dishonestly.

In this respect, the Panel endorsed paragraphs 17 to 21 of the provisional CPD agreement.

The panel noted that Mrs Kenny had fully accepted her failings. It bore in mind that she had fully repaid the overpayment to the Trust, undertaken reflection, and demonstrated insight into her failings and remorse. She also provided context regarding her personal circumstances at the time of the concerns.

The panel further noted that, in her reflective statement, Mrs Kenny set out the learning she had obtained through completing a Probity and Ethics course for Healthcare Professionals, as well as *Ensuring a Similar Healthcare Mistake or Misconduct Won't Happen*, which she stated had transformed her understanding of professional responsibility.

Mrs Kenny also provided a number of positive references and testimonials from past and present colleagues, together with her current employer, who is fully aware of the concerns and describes her as “open, honest and transparent.”

The panel did not believe that a finding of impairment was required on public protection grounds. It noted that Mrs Kenny had not been referred to the NMC aside from this current matter, had demonstrated acceptance and personal responsibility, and understood the seriousness of her actions. The panel agreed that the risk of repetition was low.

However, given the nature and seriousness of Mrs Kenny conduct, which involved repeated dishonest behaviour for personal financial gain, the panel was of the view that a finding of impairment was required on public interest grounds. It determined that a fully informed member of the public would be very concerned by Mrs Kenny's dishonesty and would be very concerned should a finding of no current impairment be made in light of her conduct.

In this respect, the Panel endorsed paragraphs 22 to 42 of the provisional CPD agreement.

Decision and reasons on sanction

Having found Mrs Kenny's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not

intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features (as per the CPD agreement):

- A significant period of repeated dishonesty which was for personal gain.

The panel also took into account the following mitigating features (as per the CPD agreement):

- The money overpaid to the Registrant by the Trust was repaid by the Registrant in full;
- The Registrant has demonstrated remorse and insight through developed reflection and relevant training;
- The Registrant's clinical practice has been commended and positive references have been provided speaking highly about the Registrant's character.

The panel discussed the aggravating and mitigating features in this case and agreed with those set out in the CPD agreement.

The panel first considered whether to take no action. It agreed with paragraph 47 and 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.

The panel then considered the imposition of a caution order. It agreed with paragraph 48 and again determined that, due to the seriousness of the case, an order that does not restrict Mrs Kenny's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the*

spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.' The panel considered that Mrs Kenny's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mrs Kenny's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable, and are usually not appropriate where there are no public protection issues.

The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The panel bore in mind that there are no clinical concerns in this case and so there were no areas of Mrs Kenny's practice that are in need of monitoring or improvement.

Furthermore, the panel concluded that the placing of conditions on Mrs Kenny's registration would not adequately address the seriousness of this case and would not satisfy the wider public interest as a result. The panel agreed with paragraph 49.

The panel then went on to consider whether a suspension order would be an appropriate sanction.

The panel took account of the mitigating factors, namely the fact that Mrs Kenny had repaid the money owed, her personal circumstances and she has reflected and demonstrated remorse.

The panel was also minded that Mrs Kenny appears to have engaged fully with this process and the NMC.

The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register.

The panel did go on to consider whether a striking-off order would be proportionate. It took account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate for Mrs Kenny to be removed from the Register after an unblemished career. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Mrs Kenny's case to impose a striking-off order.

Balancing all of these factors the panel agreed with the CPD that a suspension order would be the appropriate and proportionate sanction.

The panel noted the hardship such an order will inevitably cause Mrs Kenny. However, this is outweighed by the public interest in this case.

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

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

Having found that Mrs Kenny's fitness to practise is currently impaired, the panel bore in mind that it determined there were no public protection concerns arising from its decision. In this respect it found Mrs Kenny's fitness to practise impaired on the grounds of public interest.

In accordance with Article 29 (8A) of the Order the panel may exercise its discretionary power and determine that a review of the substantive order is not necessary.

The panel determined that it made the suspension order having found Mrs Kenny's fitness to practise currently impaired on the grounds of public interest alone. The panel was satisfied that the suspension order will satisfy the public interest in this case and will maintain public confidence in the profession(s) as well as the NMC as the regulator. Further, the suspension order will declare and uphold proper professional standards.

Accordingly, the current suspension order will expire, without review, on 27 October 2026.

Decision and reasons on interim order

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

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

The panel was satisfied that an interim order is not required as there are no live public protection concerns in this case

That concludes this determination.