

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

**Substantive Meeting  
Tuesday, 10 February 2026 – Wednesday, 11 February 2026**

Virtual Meeting

**Name of Registrant:** Jane Maureen Annabel Barker

**NMC PIN:** 10F0505E

**Part(s) of the register:** Nurses part of the register Sub part 1  
RNA: Adult nurse, level 1  
(23 September 2011)

**Relevant Location:** Brentwood

**Type of case:** Misconduct and Conviction

**Panel members:** Graham Thomas Gardner (Chair, lay member)  
Alison Smalley (Registrant member)  
Robert Marshall (Lay member)

**Legal Assessor:** Suzanne Palmer

**Hearings Coordinator:** Elizabeth Fagbo

**Facts proved:** Charges 1, 2a, 2b, 2c, 2d, 3a, 3b, 3c  
(Misconduct)  
  
Charges 1a and 1b (Conviction)

**Fitness to practise:** Impaired

**Sanction:** **Striking-off order**

**Interim order:** **Interim suspension order (18 months)**

## **Decision and reasons on service of Notice of Meeting**

The panel was informed at the start of this meeting that the Notice of Meeting had been sent to Miss Barker's registered email address by secure email on 7 January 2026.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, the time, dates and venue of the meeting.

In the light of all of the information available, the panel was satisfied that Miss Barker has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel noted that this was listed as a meeting, without the parties present. It was content to proceed on the basis of a meeting.

## **Details of charge**

That you, a registered nurse:

1. Between August and September 2023 attended work whilst unfit for duty.
2. On 20 September 2023 drew a controlled drug into a syringe and:
  - (a) Failed to sign for the controlled drug being taken
  - (b) Failed to have a witness present when the controlled drug was taken
  - (c) Failed to obtain a second signature
  - (d) Left the syringe with the controlled drug unattended
3. On or about 21 September 2023:

a) removed a quantity of cyclizine and needles belonging to your employer Nuffield Health Brentwood Hospital.

b) Your actions at Charge 1(a) were dishonest in that you knew that the cyclizine and needles did not belong to you.

c) Your actions at Charge 1(a) were dishonest in that you knew that you were not authorised to take the cyclizine and the needles.

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

That you, a registered nurse:

1. On 23 September 2023 at Chelmsford Magistrates Court were convicted of:

(a) Theft by employee: Between 13/09/2023 and 21/09/2023 at Brentwood in the county of Essex stole Fentanyl, of a value unknown belonging to Nuffield Health Brentwood Hospital

(b) Possession of a controlled drug of Class A: On 21/09/2023 at Brentwood in the county of Essex had in your possession a quantity of FENTANYL, a controlled drug of class A in contravention of section 5(1) of the Misuse of Drugs Act 1971

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

The panel noted that there was what was plainly a typographical error in charges 3b and 3c, in that they referred to charge 1a when it was clearly intended that they should refer to charge 3a. The panel throughout its deliberations on the case, read the charges as though they were referring to charge 3a rather than 1a. It did not feel it necessary to make a formal amendment or to contact the parties in relation to this interpretation of the charge.

The panel noted a second typographical error in the proof of postage document, within the conviction charge. However, it was of the view that there was no detriment to Miss Barker as a result of this typographical error as the conviction charge was reflected accurately throughout the rest of the proof of postage document and all of the other documents for this meeting.

## **Background**

On 3 October 2023, Miss Barker was referred by Essex Police to the Nursing and Midwifery Council ('NMC'). Miss Barker was employed as Clinical Lead for Endoscopy at Nuffield Health Brentwood Hospital (the Hospital)

From August 2023 Miss Barker's colleagues describe her behaviour to include the following:

- (a) [PRIVATE]
- (b) [PRIVATE]
- (c) going to the toilet frequently
- (d) [PRIVATE]
- (e) [PRIVATE]
- (f) bumping into equipment
- (g) [PRIVATE]

On 20 September 2023 Miss Barker had drawn up controlled drugs in a syringe. She had done so without a witness and did not sign for the drugs. Miss Barker left the drawn up controlled drugs unattended.

On 21 September 2023, Miss Barker was challenged by her manager (Witness 2) and the Director of Clinical Services (Witness 1) at the Hospital. They asked Miss Barker to empty her bag, but she said she felt sick and ran to the toilet. When Miss Barker came out of the toilet, they asked her to empty the bag which had an array of items such as strips of tablets, cyclizine, empty saline ampoules, lids of controlled drug ampoules, and used

needles. She appeared to put something in her shoe and pocket and was asked to empty her pocket. She removed syringes and used needles labelled "fentanyl".

The police were called and arrested Miss Barker at the hospital. The police reported that she appeared to be [PRIVATE] at the time of her arrest. Following Miss Barker's arrest on 21 September 2023 the police searched her car and home address. In her car they found sodium chloride, drug paraphernalia, 9 used vials of liquid labelled cyclizine lactate and caps for needles, a used vial of fentanyl and a used needle.

A local investigation was conducted by the [PRIVATE] (Witness 3) on 9 October 2023 with Miss Barker. In that interview she admitted that she had a vial of fentanyl and 8 vials of cyclizine when searched by the police. She said she had taken part used vials of fentanyl from work and consumed them at home. She also admitted [PRIVATE] and that she [PRIVATE]. She also stated that she had taken both cyclizine and fentanyl from work, that she had taken them from the drug wastage which had not been correctly disposed of. She said that she did use drugs at work but did not use fentanyl as she thought it would make her fall asleep.

In relation to the failure to follow correct procedures in preparing the controlled drug syringe, she admitted taking the controlled drug out of the cupboard without signing for it or having a second checker, drawn drugs in the syringe and left them unattended when called into a meeting. She admitted that she did not follow the controlled drug policy and these omissions were not intentional.

### **Decision and reasons on facts**

In reaching its decisions on the facts, the panel took into account all the documentary evidence in this case together with the representations made by the NMC.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

The panel had regard to the written statements of the following witnesses on behalf of the NMC:

- Witness 1: Director of Clinical Services at the Hospital, at the material time;
- Witness 2: Theatre and Endoscopy Manager at the Hospital, at the material time;
- Witness 3: Clinical Governance Lead at the Hospital, at the material time.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the documentary evidence provided by both the NMC and the Hospital. The legal assessor advised the panel that the test for dishonesty was as set out in paragraph 74 of *Ivey v Genting Casinos (UK) Ltd (t/a Crockfords)* [2017] UKSC 67.

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

## **Misconduct charges**

### **Charge 1**

“That you, a registered nurse:

Between August and September 2023 attended work whilst unfit for duty.”

### **This charge is found proved.**

In reaching this decision, the panel took into account the witness statements of Witness 1, and Witness 2. It also took into account the Hospital’s Investigation Meeting notes dated 9 October 2023.

Witness 1 stated the following:

*'... Janey had been acting erratic and was moving between the reception area and using the toilets on an hourly basis...*

*...Janey had been on leave and when she came back she was [PRIVATE]...*

*'...Janey's behaviour was getting worse and she got upset when we broached [sic] her [PRIVATE] and taking time off...'*

Witness 2 stated the following:

*'...She then started to develop what I can only describe as a [PRIVATE]...*

*'... The team that had been in that evening raised concerns about Janey's behaviour. She was locked in a toilet for a long time and she had also stashed her bag away. It was noted that the bag was very bulky. All staff that were on duty provided statements...'*

The panel also considered Miss Barker's evidence given in the Hospital Investigation Meeting notes :

*'...JB said 'yes she was [PRIVATE] at work and stealing them from work'...'*

*... JB confirmed that she did not use fentanyl at work. She did not know if the [PRIVATE]...*

*... JB said she was [PRIVATE]for a couple of weeks...*

*... asked whether JB could put a timeframe on how long she was [PRIVATE]. JB tried to think of the date...'*

The panel accepted the written statements of Witness 1 and Witness 2 which evidenced that Miss Barker had attended the workplace with [PRIVATE] and that several concerns were raised by multiple members of staff regarding Miss Barker's unusual behaviour at the

time. The panel also accepted Miss Barker's admissions to [PRIVATE] whilst at work within the Hospital's Investigation report.

The panel determined that between August and September 2023, Miss Barker had attended work whilst unfit for duty. Therefore, the panel found charge 1 proved on the balance of probabilities.

## **Charge 2)**

"That you, a registered nurse:

On 20 September 2023 drew a controlled drug into a syringe and:

- (a) Failed to sign for the controlled drug being taken
- (b) Failed to have a witness present when the controlled drug was taken
- (c) Failed to obtain a second signature
- (d) Left the syringe with the controlled drug unattended."

**This charge is found proved in its entirety.**

In reaching this decision, the panel took into account the Hospital's Investigation Meeting notes dated 9 October 2023.

The Investigation Meeting notes stated the following:

*'...JB acknowledged that she did do wrong. That morning JB's interpretation was that she didn't purposely draw up on her own...JB was certain she said to colleague she was going to draw up. JB said the process could have been a lot tighter...*

...

*...JB remembers being asked to have a chat with [Witness 2] and [Witness 1] and then did not even think about the CDs on the side once called and she had not had time to write in the register at that time. When she came back*

*she looked in the CD book to sign and the other nurse had signed it but reported back that they were draw up and left. JB said she did draw them up without a witness, didn't sign the book and let them on the side...'*

The panel accepted the evidence contained in the Investigation Meeting notes where Miss Barker stated that she had drawn up controlled drugs into a syringe on her own without a witness present, however, had been distracted when called into a meeting with Witness 1 and 2, resulting in her leaving the drugs unattended. Miss Barker then failed to make an entry into the controlled drug record book, meaning that she also failed to obtain a second signature.

The panel noted that it was not entirely clear from the evidence whether the medication drawn up in relation to this charge was intended for administration to a specific patient. However, it noted that one of the NMC witnesses mentioned that the patient had not come to any harm as a result of the incident. The panel inferred from this that the medication was intended to be administered to a particular patient, and that the mischief involved in this charge was a failure to follow appropriate procedures in relation to the management and administration of controlled drugs.

The panel therefore found charge 2a, 2b, 2c, and 2d proved.

### **Charge 3)**

“That you, a registered nurse:

On or about 21 September 2023:

a) removed a quantity of cyclizine and needles belonging to your employer Nuffield Health Brentwood Hospital.”

**This charge is found proved.**

In reaching this decision, the panel took into account the witness statements of Witness 1, and Witness 2. It also took into account the findings from the Hospital's Investigation report dated 17 October 2023 and the Police report from Essex Police.

Witness 1 stated the following:

*'...Due to ongoing concerns about Janey, I met her with [Witness 2] on 21 September 2023. During this meeting I asked Janey to empty her bag and she agreed. However, Janey said she was feeling sick and then she ran to the toilet in endoscopy with her bag. Could hear sounds like retching from Janey in the toilet. I said that she needed to come out. When Janey came out she didn't have her bag with her and [Witness 2] went into the toilet [sic] and said she thought Janey had flushed somethings down the toilet. We then [sic] emptied the bag on the floor.*

*There was so much in Janey's bag. She had strips of different tablets and, other things in her bag: anti sickness tablets, diet pills, caffeine tablets, suppositories, voitarol, beta histamine, codeine phosphate, cyclizine hydrochloride, co-codamol, vitamin D, and diazepam 5mg ... We also found used needles with small bit of blood in the bottom of them. We also found an empty ampoule – the outer case so couldn't tell what drug it was for...'*

The Investigation Manager, Witness 3, detailed the following findings in the Investigation Report:

*'...JB confirmed that the vials found by the police in her possession were stolen from work but then contradicted herself and said she had only take [sic] wastage Fentanyl in part used syringes.*

*It cannot be confirmed that JB stole the 48 vials of controlled drugs found missing on 14 September 2023. However, she has admitted to theft of at least 1 vial of Fentanyl and 8 vials of Cyclizine.*

*I conclude that based on JB's responses and the police findings, JB did steal a drugs [sic] including the controlled drug Fentanyl and also Cyclizine from her workplace...'*

The panel noted that Miss Barker admitted to taking Cyclizine from the Hospital during the local investigation as it was stated in the Investigatory Meeting Notes that:

*'...JB confirmed that the fentanyl and cyclizine vials came from work...'*

The panel also took into account the police report which stated the following:

*'... search was conducted at BARKERS home address during which officers seized Sodium Chloride (Exhibit TL/03), Needle and Chemical Solution (Exhibit TL/04, Naproxen tablets (Exhibit TL/05), Small plastic bags (TL/06)*

*...*

*Officers also conducted a Section 18 search of BARKERS motor vehicle that was situated in the car park at NUFFIELD HEALTH CENTRE, SHENFIELD ROAD, BRENTWOOD was conducted. During the search officers found two carrier bags containing drug paraphernalia in the boot of the vehicle including 9 x used vials of liquid with the label stating 'CYCLAZINE LACTATE 50mg/1ml and 6 x used bottles of SODIUM CHLORIDE 10ML. In the front nearside of the vehicle the officers found caps for needles, a used vial of Fentanyl, and a used needle...'*

The panel was satisfied from the evidence above that Miss Barker had taken cyclizine and needles from the Hospital. Miss Barker had also been found with cyclizine and needles in her bag when confronted and bag searched by Witness 1 and Witness 2.

The panel therefore found charge 3a proved.

### **Charge 3b) and 3c)**

"That you, a registered nurse:

On or about 21 September 2023:

b) Your actions at Charge 1(a) were dishonest in that you knew that the cyclizine and needles did not belong to you.

c) Your actions at Charge 1(a) were dishonest in that you knew that you were not authorised to take the cyclizine and the needles.”

**This charge is found proved.**

The panel used the ‘Ivey’ test as set out by the legal assessor:

*‘(a) what was the defendant’s actual state of knowledge or belief as to the facts and*

*(b) was his conduct dishonest by the standards of ordinary decent people?’*

Firstly, the panel considered Miss Barker’s state of mind at the time. It took into account that Witness 1 and Witness 2 had described Mrs Barker as appearing to be under the influence of a substance and had been reportedly ‘*bumping into things.*’ The panel also noted that when confronted by Witness 1 and Witness 2, Miss Barker had told them she felt sick and went to the bathroom, taking her handbag with her. Witness 1 and Witness 2 were suspicious of why Miss Barker had gone to the toilet at that time and were of the view that she did so most likely in an attempt to dispose of some drugs. Upon Miss Barker’s return from the toilet, Witness 1 and Witness 2 searched Miss Barker’s bag and found cyclizine and needles amongst other medications inside. Miss Barker admitted that she did take cyclizine from the workplace and consumed it whilst at work. Although the panel noted that cyclizine is an anti-emetic drug it also noted that Miss Barker had said that [PRIVATE].’ The panel was of the view that Miss Barker was aware that what she was doing was wrong and that she was not entitled to take medication from the Hospital. This appeared likely to be the reason why she attempted to go to the bathroom to dispose of drugs that she had stolen from the Hospital [PRIVATE] which the panel considered to demonstrate a guilty knowledge.

Similarly Miss Barker's failed attempts to conceal stolen drugs paraphernalia in her socks and shoes when confronted was found by the panel to be indicative of a person deliberately endeavouring to avoid discovery.

The panel then considered whether Miss Barker's conduct would be considered dishonest by ordinary, decent people. The panel was satisfied that removing medication from the Hospital, intended to be administered to patients, to satisfy [PRIVATE] was plainly dishonest.

The panel was of the view that as a registered nurse, Miss Barker would have been aware of the fact that the Hospital owned the drugs (cyclizine) and the needles, and that they were intended for use by patients. Therefore, Miss Barker would have been aware that she was not authorised to remove any equipment and/or medication from the Hospital's premises.

The panel determined that Miss Barker had acted dishonestly and below the expected standards of a registered nurse in taking cyclizine and needles from the Hospital, which she was not authorised to do. Therefore, it found charge 3b and 3c proved.

### **Conviction charges**

*'That you, a registered nurse:*

*1. On 23 September 2023 at Chelmsford Magistrates Court were convicted of:*

*(a) Theft by employee: Between 13/09/2023 and 21/09/2023 at Brentwood in the county of Essex stole Fentanyl, of a value unknown belonging to Nuffield Health Brentwood Hospital*

*(b) Possession of a controlled drug of Class A: On 21/09/2023 at Brentwood in the county of Essex had in your possession a quantity of FENTANYL, a controlled drug of class A in contravention of section 5(1) of the Misuse of Drugs Act 1971*

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

The panel noted that Charges 1a) and 1b) concern Miss Barker's conviction and, having been provided with a copy of the certificate of conviction, the panel determined that Charges 1a) and 1b) are found proved in accordance with Rule 31 (2) and (3).

- '31.—** (2) *Where a registrant has been convicted of a criminal offence—*
- (a) *a copy of the certificate of conviction, certified by a competent officer of a Court in the United Kingdom (or, in Scotland, an extract conviction) shall be conclusive proof of the conviction; and*
  - (b) *the findings of fact upon which the conviction is based shall be admissible as proof of those facts.*
- (3) *The only evidence which may be adduced by the registrant in rebuttal of a conviction certified or extracted in accordance with paragraph (2)(a) is evidence for the purpose of proving that she is not the person referred to in the certificate or extract.'*

## **Fitness to practise**

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Miss Barker's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as 'a professional on our register can practise as a nurse, midwife or nursing associate safely and effectively without restriction' (Reference: DMA-1 as updated: 28/01/2026).

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

### **Representations on misconduct and impairment**

In coming to its decision, the panel had regard to the case of *Roylance v GMC (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.' Also, the comments of Jackson J in *Calheam v GMC* [2007] EWHC 2606 (Admin) and Collins J in *Nandi v General Medical Council* [2004] EWHC 2317 (Admin).

The NMC 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, midwives and nursing associates (2015)' ("the Code") in making its decision.

The NMC identified the specific, relevant standards where Miss Barker's actions amounted to misconduct: 10, 10.1, 16.1, 16.3, 18, 18.2, 18.4, 19, 19.1, 19.4, 20, 20.1, 20.2, 20.3, 20.4, 20.8, 20.9.

The NMC submitted that as a registered nurse, Miss Barker is expected to deliver care which does not pose a risk of harm to patients. Both attending work whilst unfit and [PRIVATE] pose serious risk to those in her care and clinical judgment and decision making are diminished when a nurse is unfit whilst on duty or [PRIVATE]. The removal of drugs is a serious matter, raising concerns of trust and so calls into question Miss Barker's integrity and professionalism, and undermines public confidence in the nursing profession. Additionally, failure to follow procedures for recording controlled drugs being dispensed and its secure storage is central to preserving the safety of the public and Miss Barker's actions compromised that safety. The concerns raised are serious and fall far below the standards expected of a registered professional. In all these circumstances, not only is the

conduct a serious departure from the Code, it is a serious departure from the standards expected of a registered professional and as such amounts to serious misconduct.

The NMC requires the panel to bear in mind its overarching objective to protect 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.

In regard to impairment the NMC referred to the questions outlined by Dame Janet Smith in the 5th Shipman Report (as endorsed in the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin)) are instructive. Those questions were:

- a. has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b. has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c. has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d. has in the past acted dishonestly and/or is liable to act dishonestly in the future. in written submissions and submitted that the four limbs are engaged in this case.*

The NMC submitted that all four limbs can be answered in the affirmative in this case. Although it could be said that there was no actual patient harm in this case, where a nurse takes drugs from her employer, [PRIVATE] and attends for duty whilst unfit, the delivery of safe care and so patient safety is seriously compromised. The removal of cyclizine from the hospital, the conviction of theft of fentanyl from her employer and possession of fentanyl, were all drugs intended for patient use. Miss Barker's actions depleted their supply which ultimately could result in there not being sufficient medication for patients when required, thereby putting patients at risk of harm. Miss Barker's failure to follow the correct procedure in dispensing, recording and storing a controlled drug raises the risk of

errors made in administering controlled drugs and safe storage, all of which put patients at risk of harm.

The NMC submitted that Miss Barker's misconduct and conviction bring the profession into disrepute and cause damage both now and in the future. Registrants occupy a position of trust and where a registrant abuses their position of trust by acts of taking drugs from their employer, and attending work whilst unfit, such matters undermine that position of trust and bring the profession into disrepute. The conviction for theft from her employer and possession of Class A drugs further undermines the position of trust, where registered professionals must act and promote honesty and so brings the profession into disrepute.

The NMC submitted that failure to follow all the correct procedures in the dispensing and storing controlled drugs also brings the profession into disrepute as the procedures were not followed at all in relation to the recording and witnessing of the drug being dispensed, then leaving the drug unsafely stored. Following the correct procedure in dispensing and storing controlled drugs are all aspects of basic nursing practice and failure to do so damages the profession's reputation.

The NMC submitted that the failings have also breached fundamental tenets of the profession. Nurses are expected to act with honesty, integrity and trustworthiness at all times and to always uphold the reputation of the profession. They are expected to provide a high standard of care at all times and keep people safe. They also occupy a position of trust both as a nurse and employee. The registrant's misconduct and conviction for offences of theft and possession of controlled drugs completely contradicts those fundamental tenets of nursing.

The NMC submitted that Miss Barker's actions removing drugs and theft of drugs from an employer were dishonest acts and the conduct underlying the conviction for theft took place over an extended period, were repeated and involved removing drugs to her car and home address. These actions are likely to be repeated in the future.

Impairment is a forward-thinking exercise which looks at the risk the registrant's practice poses in the future. NMC guidance adopts the approach of Silber J in the case of *R (on application of Cohen) v General Medical Council* [2008] EWHC

581 (Admin) by asking the questions whether the concern is easily remediable, whether it has in fact been remedied and whether it is highly unlikely to be repeated.

The NMC submitted that Miss Barker has displayed limited insight. Miss Barker said she was remorseful and embarrassed by her actions during a local interview. However, Miss Barker has not returned the Case Management Form ('CMF') and therefore no material disputes have been raised. Miss Barker has been the subject of an interim order that prevents her from working as a nurse, which was imposed on her practice on 25 October 2023. However, notwithstanding this restriction, Miss Barker has not provided any evidence from any employer past or present attesting to her honesty and integrity. There is no evidence of any training or any reflection undertaken by the registrant to address the misconduct and conduct underlying the conviction in this case. We therefore consider that there is a continuing risk to the public due to her lack of full insight, failure to undertake relevant training or undergo and meaningful reflection.

The NMC submitted that Miss Barker's fitness to practise is impaired by reason of misconduct and conviction.

No written representations were received from Miss Barker, who does not appear to have engaged with these proceedings at any stage.

The panel heard and accepted the advice of the legal assessor. This included reference to *Grant* and Dame Janet Smith's test as set out in the Fifth Report from The Shipman Enquiry.

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

*'10 Keep clear and accurate records relevant to your practice*

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

*10.1 complete all records at the time or as soon as possible after an event, recording if the notes are written some time after the event*

*18 Advise on, prescribe, supply, dispense or administer medicines within the limits of your training and competence, the law, our guidance and other relevant policies, guidance and regulations*

*18.2 keep to appropriate guidelines when giving advice on using controlled drugs and recording the prescribing, supply, dispensing or administration of controlled drugs*

*18.4 take all steps to keep medicines stored securely*

*19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice*

*19.1 take measures to reduce as far as possible, the likelihood of mistakes, near misses, harm and the effect of harm if it takes place*

*19.4 take all reasonable personal precautions necessary to avoid any potential health risks to colleagues, people receiving care and the public*

*20 Uphold the reputation of your profession at all times*

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

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

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

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

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

*20.9 maintain the level of health you need to carry out your professional role'*

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

The panel was of the view that Miss Barker was in a senior position which required her to act with integrity and be a role model of professional behaviour for junior colleagues and students. Stealing medication and needles from the Hospital had the potential to create a risk of harm to patients. The panel was of the view that patients in need of the medication that Miss Barker had stolen, may not have had access to them as and when required. Even if some of the medication she took consisted of part used vials which were going to be thrown away, she was still in breach of policies and procedures which are in place to ensure the safety of patients and the public in respect of controlled drugs. Failure to follow proper procedures in respect of the administration of controlled drugs (charge 2) put patients at risk of harm. Dishonesty is always a serious matter. The panel was therefore of the view that all three proven misconduct charges represented serious departures from required standards.

The panel determined that Miss Barker's actions had the potential to undermine the confidence and trust placed in her profession by colleagues, patients, the wider public and the NMC as regulator.

The panel found that Miss Barker's actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

### **Decision and reasons on impairment**

The panel next went on to decide if as a result of the misconduct and conviction, Miss Barker's fitness to practise is currently impaired.

In coming to its decision, the panel had regard to the NMC Guidance on '*Impairment*' (Reference: DMA-1 Last Updated: 28/01/2026) in which the following is stated:

*'Being fit to practise is not defined in our legislation but for us it means that a professional on our register can practise as a nurse midwife or nursing associate safely and effectively without restriction.'*

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and their families must be able to trust nurses with their lives and

the lives of their loved ones. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* in reaching its decision. In paragraph 74, she said:

*'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'*

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

*'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/their fitness to practise is impaired in the sense that S/He/They:*

- a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d) has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

The panel determined that all four limbs are engaged in this case. The panel found that patients were put at risk of harm as a result of Miss Barker's misconduct as patients could be at risk of not receiving the medication they were prescribed. The panel was satisfied that Miss Barker's misconduct and conviction had breached the fundamental tenets of the nursing profession, including promoting professionalism and trust and practising effectively, and therefore brought its reputation into disrepute. Further, it determined that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

The panel had regard to the case of *Cohen v General Medical Council* and considered the following factors:

- whether the misconduct is capable of being addressed;
- whether it has been addressed; and
- whether the misconduct is highly unlikely to be repeated.

The panel considered whether Miss Barker's conduct was capable of being addressed. It noted that Miss Barker had not engaged with the NMC. It also considered that the misconduct in this case involved dishonesty which had been found proved and resulted in a conviction. It determined that Miss Barker's misconduct raised potential attitudinal concerns which are inherently difficult to address.

The panel noted that it seems that Miss Barker's actions may have related to health concerns (addiction). In addition, it noted some information in the documents suggesting that, [PRIVATE]. However, in the absence of any engagement from Miss Barker, the panel had no clear information about any of these matters, [PRIVATE] to indicate what if any impact they may have had on her behaviour at the time, and no information about whether any issues have now been managed and resolved.

The panel had no evidence of any meaningful reflections, remorse, remediation or strengthening of practice before it to suggest that Miss Barker has demonstrated any insight into her misconduct. The panel found that there was no information to suggest that Miss Barker had an understanding of how her actions put patients at a risk of harm, why

her actions were wrong, how this could negatively impact the reputation of the nursing profession, and how she would handle the situation differently in the future. As such, the panel could not be satisfied that it is highly unlikely that your misconduct would be repeated in the future. Also, [PRIVATE]. It therefore found that there is a high risk of repetition and that a finding of current impairment of fitness to practise is 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 addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Miss Barker's fitness to practise is impaired on the ground of public interest. The panel determined that a member of the public in possession of all the facts in this case would find Miss Barker's actions to be deplorable regarding a nurse stealing medication and being under the influence of drugs whilst on duty. A member of the public would be concerned if a finding of impairment was not made by the NMC given that this case involves dishonesty with drugs being stolen from a hospital [PRIVATE], a conviction and [PRIVATE] .

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

## **Sanction**

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

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

### **Representations on sanction**

The panel noted that in the Notice of Meeting, dated 7 January 2026, the NMC had advised Miss Barker that it would seek the imposition of a Strike off order if it found Miss Barker's fitness to practise currently impaired.

The NMC suggested the following aggravating features in the case:

- Abuse of position of trust
- Use of drugs at work/ attending whilst unfit put patients at risk
- Repeated dishonest actions over an extended period time

The NMC suggested the following mitigating features:

- No harm to patients

The NMC referred to the Guidance at SAN-2 which provides that where a nurse act dishonestly there will always be a risk that they will be removed and that the following matters are likely to call into question whether a nurse can remain on the register. These matters include:

- misuse of power
- vulnerable victims
- direct risk to people receiving care
- premeditated systematic or longstanding deception

In regard to taking no action the NMC submitted that the concerns are too serious for this and both the misconduct and conviction raise matters of serious risk to patients and makes this unsuitable as a sanction. It is also conduct that undermines public trust and breaches fundamental tenets of the profession.

In regard to a caution order the NMC submitted that this sanction is appropriate if there is no risk to the public and is at the lower end of the spectrum of impairment. The misconduct and conviction in this case are not at the lower end of the spectrum of impairment and there remains a significant risk to the public. Therefore, a caution order is not a suitable sanction.

In relation to a conditions of practice order the NMC submitted that this sanction would not be appropriate in the circumstances of this case as the conduct includes attitudinal concerns and dishonesty, which cannot be addressed by a conditions of practice order and as there are no workable or measurable conditions that could be imposed.

In relation to a suspension order, the NMC submitted that this sanction would only temporarily protect the public as the dishonesty cannot be said to be a single instance and there are underlying attitudinal concerns, which cannot be addressed by temporary removal from the register. A suspension order would not be sufficient to protect the public or satisfy the significant public interest in this case or mark the seriousness of the misconduct and conviction.

The NMC submitted that a striking-off order is the only appropriate and proportionate sanction in this case. Miss Barker's actions of stealing drugs from her employer, using of drugs, and attending for work whilst unfit raise fundamental questions about her professionalism and trustworthiness as a nurse. Further, public confidence in the profession would be diminished if Miss Barker is not removed from the register. Therefore, striking Miss Barker off the register would be the only sanction sufficient to protect patients, members of the public and maintain standards and confidence within the profession and the NMC as its regulator.

### **Decision and reasons on sanction**

Having found Miss Barker'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:

- Abuse of a position of trust
- Lack of evidence of insight or reflection
- A pattern of misconduct over a period of time
- [PRIVATE] / attending whilst unfit
- Conduct which put patients at risk of suffering harm
- Repeated dishonest actions over a period of two months

The panel also took into account the following mitigating features:

- Admissions at a local level
- Guilty plea at the first opportunity
- [PRIVATE] and personal circumstances at the time

It took into account the following guidance – SAN-4 (last updated on 28 January 2026):

*‘...Honesty is of central importance to a professional’s practice because of the large degree of trust placed in them. Therefore, allegations of dishonesty will almost always put the public at risk of the professional not being trustworthy; because of this a professional who has acted dishonestly will always be at risk of strike-off. However, in every case the Committee must carefully consider the kind of dishonest conduct that has taken place. Not all dishonesty is equally serious.<sup>1</sup> Generally, the forms of dishonesty which are most likely to require consideration of striking-off will involve (but are not limited to):*

- ...
- ...
- *personal ... gain from a breach of trust*
- *direct risk to people receiving care*

- *premeditated, systematic or longstanding deception.*

*Dishonest conduct will generally be less serious in cases of:*

- *one-off incidents*
- *spontaneous conduct*
- *no direct personal gain*
- *incidents outside professional practice.*

*This is not an exhaustive list.*

*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...'*

The panel noted that Miss Barker's misconduct involved repeated acts of dishonesty and an element of personal gain. In particular, it had regard to the absence of any evidence of remorse, strengthening of practice, remediation or how she would prevent this happening in the future. The panel determined that the dishonesty in this case was in the middle of the spectrum of dishonest conduct.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case and the risk to patients. The panel decided that it would neither protect the public nor be 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 involving dishonesty and a conviction, and the public protection issues identified, an order that does not restrict Miss Barker's practice would not be appropriate in the circumstances. In the NMC Guidance on '*Caution order*' (Reference: SAN-2b) as updated: 28/01/2026) the following is set out: '*A caution is only appropriate if*

*the Committee has decided there's no risk to the public or to people using services that requires the professional's practice to be restricted. This means the case is at the lower end of the spectrum of impaired fitness to practise, but the Committee wants to mark that what happened was unacceptable and must not happen again.'* The panel considered that Miss Barker's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case and the risk to patients. The panel decided that it would neither protect the public nor be in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Miss Barker's registration would be a sufficient and appropriate response. The panel took into account the SG, including SAN-2c and SAN-3 (last updated on 28 January 2026), in particular it noted the following matters which assist in determining whether conditions might be appropriate:

- *'...no evidence of deep-seated personality or attitudinal problems*
- *identifiable areas of the professional's practice in need of assessment and/or retraining*
- *...*
- *potential and willingness to respond positively to retraining (this should be based on specific evidence provided by the professional)*
- *...*
- *people using services will not be put at risk either directly or indirectly as a result of the conditions*
- *conditions can be created that can be monitored and assessed...'*

The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the proven charges in this case which related to Miss Barker's professional practice and personal conduct rather than her clinical competence. The misconduct identified in this case involved a pattern of dishonesty, which evidenced attitudinal concerns that cannot be easily addressed through retraining, and Miss Barker has provided no evidence of insight or remediation of those concerns. The panel concluded that the placing of conditions on Miss Barker's registration would not adequately

address the seriousness of this case or the attitudinal concerns. It was also of the view that conditions would not adequately protect the public or satisfy the public interest.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where:

- *'...the impairment is very serious but not fundamentally incompatible with continuing to be a registered professional*
- *an outcome less severe than strike-off would still satisfy the over-arching objective...'*

The panel also considered the following matters from the guidance in SAN-2d:

- *'...whether the risk posed to the public, or to people receiving care, can only be managed by temporary removal from the Register?*
- *will suspension be sufficient to protect people using services, public confidence in the profession, or professional standards?*
- *is it realistic that the professional could return to unrestricted practice in the future, even if it is not appropriate for them to do so now?*
- *What would the registrant need to do in order to be fit to practise in the future? Is it realistic that they will be able to do this?...*

The panel noted that this was not a single incident of misconduct but represented a pattern of dishonest conduct over a period of time. The panel determined that Miss Barker's dishonesty reflected attitudinal concerns. The panel also took into account that Miss Barker had not engaged with the NMC proceedings and as a result the panel had no evidence of meaningful insight, and no remorse or remediation had been demonstrated by Miss Barker with regard to the misconduct or the linked matters leading to the conviction. The panel had no evidence before it

to suggest any increase in insight or strengthening of practice and nothing to suggest a period of suspension would mitigate the identified risks. It therefore determined there was a high risk of repetition. In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

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

- *Do the charges found proved raise fundamental questions about their professionalism?*
- *Can public confidence in the profession be maintained if the professional is not removed from the Register?*
- *Is there any amount of insight and reflection which could keep people receiving care and members of the public safe, maintain public confidence in the profession, and uphold professional standards?*
- *Is there a realistic prospect that, after suspension, the professional will have gained insight and strengthened their practice such that the risk they pose will have reduced?*

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

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

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a

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

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

This will be confirmed to Miss Barker in writing.

### **Interim order**

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

### **Representations on interim order**

The panel took account of the representations made by the NMC. It submitted that the NMC is seeking the imposition of an interim suspension order for a period of 18 months to cover any appeal period until the substantive sanction order takes effect.

The NMC submitted that given the seriousness of the charges found proved, an interim suspension order is necessary on the grounds of public protection and is also otherwise in the wider public interest.

### **Decision and reasons on interim order**

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts

found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order, in particular the ongoing risk of repetition and associated risk of harm to patients.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months in order to protect the public and the wider public interest. This interim order will cover the 28-day appeal period and the duration of any appeal should Miss Barker decide to appeal against the panel's decision.

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

That concludes this determination.