

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

**Substantive Order Review Hearing
Wednesday, 14 January 2026**

Virtual Hearing

Name of Registrant: Carole Rutherford

NMC PIN: 07F0655E

Part(s) of the register: Registered Nurse – Sub Part 1
Specialist community public health nursing – V100
Specialist Practitioner – District Nursing
Adult Nursing – September 2007
Community Practitioner Nurse Prescriber – June 2012

Relevant Location: South Tyneside

Type of case: Misconduct

Panel members: Wayne Miller (Chair, lay member)
Steven Brennan-Collis (Registrant member)
Mark Allison (Lay member)

Legal Assessor: Paul Hester

Hearings Coordinator: Catherine Blake

Nursing and Midwifery Council: Represented by Susan Jean, Case Presenter

Mrs Rutherford: Not present and not represented at the hearing

Order being reviewed: Suspension order (6 months)

Fitness to practise: Impaired

Outcome: **Striking-Off order to come into effect at the end of 5 March 2026 in accordance with Article 30 (1)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Rutherford was not in attendance and that the Notice of Hearing had been sent to Mrs Rutherford's registered email address by secure email on 11 December 2025.

Mrs Jean, 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 substantive order being reviewed, the time, date and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mrs Rutherford'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 Rutherford has been served with notice of this hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mrs Rutherford

The panel next considered whether it should proceed in the absence of Mrs Rutherford. The panel had regard to Rule 21 and heard the submissions of Mrs Jean who invited the panel to continue in the absence of Mrs Rutherford.

Mrs Jean submitted that there had been no engagement at all by Mrs Rutherford with the NMC in relation to these proceedings and, as a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion.

Mrs Jean submitted that Mrs Rutherford had voluntarily absented herself.

The panel noted that an email invitation containing the hearing link was sent to Mrs Rutherford's registered email address by the Hearings Coordinator on 13 January 2026, advising that the hearing would be second on the panel's agenda and likely would not start until 1pm. An update was sent to Mrs Rutherford inviting her to confirm her attendance. No response was received by the time the panel commenced proceedings at 1pm.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mrs Rutherford. In reaching this decision, the panel has considered the submissions of Mrs Jean, and the advice of the legal assessor. It has had particular regard to relevant case law and to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mrs Rutherford;
- Mrs Rutherford has not engaged with the NMC and has not responded to any of the letters sent to her about this hearing;
- There is no reason to suppose that adjourning would secure her attendance at some future date, especially in light of her lack of engagement at previous reviews; and
- There is a strong public interest in the expeditious review of the case.

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

Decision and reasons on review of the substantive order

The panel decided to replace the current suspension order with a striking off order.

This order will come into effect at the end of 5 March 2026 in accordance with Article 30(1) of the 'Nursing and Midwifery Order 2001' (the Order).

This is the third review of a substantive suspension order originally imposed for a period of 12 months by a Fitness to Practise Committee panel on 5 February 2024. This was reviewed on 23 January 2025 when a suspension order was imposed for six months

starting from 6 March 2025. The order was next reviewed on 22 July 2025 and a further six-month suspension order was imposed starting from 5 September 2025.

The current order is due to expire at the end of 5 March 2026.

The panel is reviewing the order pursuant to Article 30(1) of the Order.

The charges found proved which resulted in the imposition of the substantive order were as follows:

'That you, a registered nurse:

1. *Claimed payment for shifts on the following dates when you did not work these shifts resulting in an overpayment:*
 - a. *16 March 2018*
 - b. *13 May 2018*
 - c. *8 July 2018*
 - d. *5 September 2018*
 - e. *8 September 2018*
 - f. *30 September 2018*
 - g. *21 October 2018*
2. *Claimed time off in lieu on 12 and/or 13 November 2018 for shifts worked on 13 and/or 14 October 2018 when you had not worked on these days;*
3. *Your actions in charge 1 were dishonest in that you knew you had not worked these shifts and intended to make a financial gain from being overpaid for these.*
4. *Your actions in charge 2 were dishonest in that you knew you had not worked on 13 and/or 14 October 2018 and intended to make a gain for yourself by claiming time off in lieu.*

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

The second reviewing panel determined the following with regard to impairment:

'The panel noted that the original panel found that Mrs Rutherford had demonstrated limited insight into her dishonesty. The original panel found that Mrs Rutherford did not demonstrate a full understanding of what she did wrong, how this impacted negatively on the reputation of the nursing profession or how she would handle situations differently in the future. This panel had no new or recent information before it to make a different finding.'

'In its consideration of whether Mrs Rutherford has remedied her practice, the panel took into account that the original panel had no information before it with regard to any steps Mrs Rutherford may have taken to strengthen her practice and determined there was a risk of repetition. This panel was not provided with any evidence of the same from Mrs Rutherford and had no further information to demonstrate that the concerns about her practice has been addressed and were unlikely to reoccur. Mrs Rutherford has not provided any information such as testimonials or employment references. She has not provided a reflective piece detailing the impact of her failings on her colleagues and the profession, or any evidence of insight into her misconduct. She has not provided any evidence of training undertaken or how she has kept her nursing skills up to date. The panel was of the view that in the absence of any information about her insight or remediation of the concerns there was a risk of repetition and a finding of impairment was required on public protection grounds.'

'The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance.'

'The panel noted that the type of dishonesty is serious, as Mrs Rutherford was paid for shifts that she did not work depriving the NHS of its funds, and since the substantive hearing, she has not engaged with the review process as requested by

the previous panels. Members of the public would be alarmed to hear the details of this case, and despite its seriousness Mrs Rutherford has failed to engage in the process. In light of this, the panel determined that, a finding of continuing impairment on public interest grounds is required.

'For these reasons, the panel finds that Mrs Rutherford's fitness to practise remains impaired.'

The second reviewing panel determined the following with regard to sanction:

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

'It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, an order that does not restrict Mrs Rutherford'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 Rutherford'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 a conditions of practice order on Mrs Rutherford's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind that Mrs Rutherford has not engaged with NMC proceedings neither has she followed the last reviewing panel's recommendations. It also noted that it has no knowledge of her current circumstances. As a result, the panel could not be satisfied that Mrs Rutherford would be willing to engage with a conditions of practice order in the future. In any event, it considered that condition would be inappropriate as there are no clinical concerns in this case. It however

determined that a conditions of practice order was not appropriate to satisfy the wider public interest in this case.

'Notwithstanding that both the panels which have adjudicated in Mrs Rutherford's case have imposed suspension orders, the panel considered whether it should impose a further suspension order. It considered that a further period of suspension would allow Mrs Rutherford further opportunity to reflect on her previous failings, an opportunity which the panel encourages her to grasp. A further six-month suspension order would also afford Mrs Rutherford a further period of time to engage with the NMC, and to demonstrate insight and steps she has taken to strengthen her practice.

'The panel therefore determined that a suspension order is the appropriate sanction which would satisfy the wider public interest and meet the need to protect the public. Accordingly, the panel decided to impose a suspension order for the period of six months with review to give Mrs Rutherford a further opportunity to engage with the NMC. It considered this to be the most appropriate and proportionate sanction available.'

Decision and reasons on current impairment

The panel has considered carefully whether Mrs Rutherford's fitness to practise remains impaired. Whilst there is no statutory definition of fitness to practise, the NMC has defined fitness to practise as a registrant's suitability to remain on the register without restriction. In considering this case, the panel has carried out a comprehensive review of the order in light of the current circumstances. Whilst it has noted the decision of the last panel, this panel has exercised its own judgement as to current impairment.

The panel has had regard to all of the documentation before it, including the NMC bundle. It has taken account of the submissions made by Mrs Jean on behalf of the NMC. She submitted that no further contact has been made by Mrs Rutherford with the NMC.

Mrs Jean noted that two of the previous reviewing panels did not consider that a finding of impairment was required on public protection grounds as patients were not placed at risk

of harm as a result of Mrs Rutherford's dishonesty. She submitted that the last reviewing panel found impairment on the ground of public protection. Mrs Jean submitted that a finding of impairment on public interest grounds was necessary. She submitted that the dishonesty in this case concerns Mrs Rutherford misappropriating NHS funds for her own personal gain on a repeated basis, and that this pertains to very serious underlying attitudinal concerns.

Mrs Jean submitted that members of the public would be alarmed by the charges found proved and that a finding of impairment is required to uphold standards in the profession and to maintain confidence in the NMC as regulator.

Mrs Jean invited the panel to impose a striking-off order. She submitted that the misconduct in this case was not at the lower end of the spectrum and so it was not appropriate to take no action, nor impose a caution order.

Mrs Jean submitted that conditions of practise would not be appropriate as the concerns are attitudinal not clinical in nature, and the panel could not be satisfied that Mrs Rutherford would engage with conditions given her lack of engagement thus far.

Mrs Jean submitted that a further period of suspension would afford Mrs Rutherford a final opportunity to reflect on her previous misconduct and engage with the NMC. However, Mrs Jean referred the panel to the NMC Guidance, and noted that a panel may impose a striking-off order if there are fundamental questions regarding the registrant's professionalism. Mrs Jean submitted that the findings against Mrs Rutherford were very serious, and her lack of engagement or attempts to remediate mean that there remain fundamental concerns about her professionalism.

Mrs Jean submitted that, under these circumstances, public confidence in the profession cannot be maintained if Mrs Rutherford were to remain on the register.

Mrs Jean submitted that a striking-off order remains the only appropriate sanction in order to maintain professional standards.

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

In reaching its decision, the panel was mindful of the need to protect the public, maintain public confidence in the profession and to declare and uphold proper standards of conduct and performance.

The panel considered whether Mrs Rutherford's fitness to practise remains impaired. It bore in mind that the persuasive burden is on Mrs Rutherford to demonstrate whether she is fit to practise.

The panel noted that the original panel found that Mrs Rutherford had limited insight. At this hearing the panel has seen no update from Mrs Rutherford and no new information as to her current levels of insight and reflection. In its consideration of whether Mrs Rutherford has taken steps to strengthen her practice, the panel took into account that it has seen no information from Mrs Rutherford regarding any attempts to remediate. The panel noted that while findings of dishonesty are very difficult to address, it is not impossible. However, the panel has seen no information that Mrs Rutherford has taken any steps towards remediating her dishonesty since the substantive order was imposed.

The original panel determined that Mrs Rutherford was liable to repeat matters of the kind found proved. Today's panel has seen no new information to demonstrate that the concerns about Mrs Rutherford's practice have been addressed such that the risk of repetition has reduced. In light of this, the panel determined that Mrs Rutherford is liable to repeat matters of the kind found proved. Bearing in mind that the charges concern the theft of NHS funds meant for the purpose of providing care to members of the public, and that such theft could impact the care offered to people in need, the panel concluded that a finding of continuing impairment is necessary on the ground of public protection.

The panel has borne in mind that its primary function is to protect patients and the wider public interest which includes maintaining confidence in the nursing profession and upholding proper standards of conduct and performance. The panel determined that, in this case, a finding of continuing impairment on the ground of public interest is required.

For these reasons, the panel finds that Mrs Rutherford's fitness to practise remains impaired.

Decision and reasons on sanction

Having found Mrs Rutherford's fitness to practise currently impaired, the panel then considered what, if any, sanction it should impose in this case. The panel noted that its powers are set out in Article 30 of the Order. The panel has also taken into account the 'NMC's Sanctions Guidance' (SG) and has borne in mind that the purpose of a sanction is not to be punitive, though any sanction imposed may have a punitive effect.

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

It then considered the imposition of a caution order but again determined that an order that does not restrict Mrs Rutherford'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 Rutherford'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 Rutherford's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel bore in mind the seriousness of the facts found proved at the original hearing and concluded that a conditions of practice order would not adequately protect the public or satisfy the public interest given the nature of the misconduct and Mrs Rutherford's lack of engagement. The misconduct found proved relates to deep-seated attitudinal concerns that, whilst not impossible, are very difficult to address through retraining. Accordingly, the panel determined that no conditions could be formulated to address the concerns, and so determined it would not be an appropriate sanction.

The panel next considered imposing a further suspension order. The panel was of the view that considerable evidence would be required to show that Mrs Rutherford no longer posed a risk to the public. The panel has not seen anything from Mrs Rutherford to demonstrate that she feels remorse for her misconduct, nor has she demonstrated any insight into her previous failings. The panel determined that a further period of suspension would not serve any useful purpose in all of the circumstances.

The panel bore in mind the NMC Guidance at REV-2h regarding lapse with impairment as Mrs Rutherford was not present nor represented at this hearing and in fairness to her as she has been a registered nurse on the NMC register since 2007.

The panel had particular regard to the section of the guidance regarding lapse with impairment and the section within that as follows:

'A panel will allow a professional to lapse with impairment where:

- the professional would no longer be on the register but for the order in place;*
- the panel can no longer conclude that the professional is likely to return to safe unrestricted practice within a reasonable period of time;*
- a striking off order isn't appropriate.'*

The panel noted that the first two bullet points in Mrs Rutherford's case are engaged and went on to consider the third bullet point as to the appropriateness of a striking-off order. In this regard, the panel noted the following section under 'lapse with impairment':

'Circumstances where lapse with impairment is likely to be appropriate include where

- a professional has shown limited engagement and/or insight, but this is reasonably attributable to a health condition; or*
- there has been insufficient progress*
 - in cases involving health or English language; or*
 - in other cases, where the lack of progress is attributable wholly or in significant part to matters outside the professional's control (e.g. health, immigration status, the ability to find work or other personal circumstances).'*

The panel decided that none of the above bullet points are relevant to Mrs Rutherford's case and therefore decided that allowing the order to lapse with a finding of current impairment would not be appropriate. The panel did decide that there remain fundamental questions about Mrs Rutherford's dishonesty and therefore professionalism. Further, it decided that it is not in the public interest nor Mrs Rutherford's to remain on the register indefinitely when she is not fit to practise, and that the appropriate order in all the circumstances is a striking-off order.

Having further regard to the NMC Guidance on sanctions and REV-2h, the panel decided that there remain fundamental questions about Mrs Rutherford's professionalism and the panel did not have any evidence before it to show that she has addressed her dishonesty. Further, the panel determined that confidence in the nursing profession would be seriously damaged if Mrs Rutherford was not struck off the register as the dishonesty was sustained, involved a substantial amount of money, and was theft from the public purse. In these circumstances, the panel determined that a striking-off order is now the only sanction to mark the seriousness of the misconduct, which Mrs Rutherford has not addressed over the last two years. The panel concluded that this is the only sanction that would adequately protect the public, maintain professional standards, and serve the public interest.

This striking-off order will take effect upon the expiry of the current suspension order, namely the end of 5 March 2026 in accordance with Article 30(1).

This decision will be confirmed to Mrs Rutherford in writing.

That concludes this determination.