Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing

Monday, 3 November – Wednesday, 12 November 2025
and
Monday, 26 January – Wednesday, 28 January 2026

Virtual Hearing

Name of Registrant:	**Olanike Toye**
NMC PIN:	15H0860E
Part(s) of the register:	Registered Nurse – Sub Part 1 Adult Nursing (Level 1) – 19 September 2015 Registered Midwife – 10 July 2019
Relevant Location:	Chelsea and Westminster, and Lewisham and Greenwich
Type of case:	Misconduct
Panel members:	Rachel Carter (Chair, Registrant member) Anne Rachael Browning (Registrant member) Kamaljit Sandhu (Lay member)
Legal Assessor:	Richard Ferry-Swainson (3 – 12 November 2025) Paul Hester (26 – 28 January 2026)
Hearings Coordinator:	Monsur Ali
Nursing and Midwifery Council:	Represented by Safeena Rashid, Case Presenter (3 – 12 November 2025) Nina Dunn, Case Presenter (26 – 28 January 2026)
Miss Toye:	Present and represented by Jon Trussler, instructed by Royal College of Nursing (RCN)
Facts proved:	Charges 1, 2, and 3

Fitness to practise:	**Impaired**
Sanction:	**Strike-off order**
Interim order:	**Interim suspension order (18 months)**

Matters of law arising during stage one, consideration of the facts

Application to reopen the case, admission of supplementary statement and exhibits and amendment of Charge 1a

After she had closed the case on behalf of the Nursing and Midwifery Council (NMC), Ms Rashid applied for the panel to reopen the case, to allow the admission of a further witness statement and exhibits from Witness 4. Although Witness 4 had already given evidence under affirmation, new and relevant material had since come to light during her cross-examination. This referred to capacity sheets that had not previously been available. Ms Rashid therefore invited the panel, under Rule 22(4) of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules), to exercise its discretion to recall Witness 4 so she could give further evidence. She submitted that the application met the requirements of fairness and relevance, that the material could not have been obtained earlier, and that no prejudice would result from reopening the case.

Ms Rashid then applied to admit Witness 4's supplementary statement and three exhibits: RM/02 confirming Witness 4's working date, RM/03 confirming your shift on 15 September 2022, and RM/04 being the relevant capacity sheet. She submitted that these materials directly related to Charge 1(a) and provided factual clarity regarding the date, shift patterns, and allocations. The application was made under Rule 31(1), and Ms Rashid submitted that the evidence was both fair and relevant, having emerged only recently and with both parties aware of it at the same time.

Finally, under Rule 28(1), Ms Rashid applied to amend Charge 1(a) to change the date of the alleged incident from 13 September 2022 to 15 September 2022. The new documentation confirmed that the latter was the correct date. She submitted that this was a minor and factual correction which did not alter the substance of the allegation and could be made without injustice, ensuring the charge reflected the evidence now before the panel.

Mr Trussler, on your behalf, confirmed there was no objection to reopening the case. He accepted that this was necessary to allow Witness 4 to be recalled and to adopt her supplementary statement, noting that the new exhibits RM/02, RM/03, and RM/04 were relevant and properly identified. He also acknowledged that the issue had arisen unexpectedly and that reopening the case was fair and reasonable.

Mr Trussler raised no objection to the admission of Witness 4's supplementary statement or exhibits. He noted that one version corrected an earlier one and that the corrected version would be relied upon. He agreed that the material was relevant to the events of 15 September 2022.

Mr Trussler did not oppose the amendment to Charge 1(a), agreeing that the change from 13 to 15 September 2022 was appropriate and simply aligned the charge with the new evidence. Mr Trussler confirmed that the amendment did not alter the nature of the allegation and was fair in all the circumstances.

The panel heard and accepted the advice of the legal assessor. He advised that the panel should take into account your position, noting that there was no objection to any of the applications. It was also relevant that although the presenting officer had closed the case on behalf of the NMC, this had only just occurred, and the defence had not yet begun its case, meaning they were able to deal with the new evidence. Reference was made to the cases of *RHCP v GMC and Ruscillo* [2004] EWCA Civ 1356 and *PSA v NMC and Jozi* [2015] EWHC 764 (Admin), which emphasise that disciplinary panels have a duty to ensure that all relevant evidence is properly placed before them.

If the panel allowed the supplementary statement to be admitted, it would be sensible to permit Witness 4 to return to confirm her evidence and be questioned further, in accordance with Rule 22(4). The legal assessor advised that this approach would assist in maintaining fairness and completeness of the evidence.

Finally, regarding the application to amend Charge 1(a), the legal assessor referred to Rule 28, which allows amendments before findings of fact unless they cause injustice. The panel should consider the reason for the amendment, its limited nature, the stage

of the proceedings, and the lack of opposition from you. The proposed amendment was a minor factual correction to the date and did not change the substance of the charge. It was therefore a matter for the panel to determine whether the amendment could be made without injustice, bearing in mind the overall fairness of the proceedings.

The panel noted that the application to reopen the case was made in order to allow the presenting officer to introduce new evidence, specifically a supplementary statement, which had come to light after the initial evidence was closed. The panel was satisfied that it was in the interests of justice to reopen the case to ensure that all relevant evidence could be properly considered. The panel took into account the fact that the NMC had only just closed its case and your case had not yet commenced. This meant that you would have the opportunity to prepare and respond to the new evidence before you decided to give evidence yourself. Accordingly, the application to reopen the case was granted.

The panel considered the application to adduce the supplementary statement. It was noted that the statement goes directly to the evidence in this case and is relevant to the matters under consideration. The defence raised no objection to the statement being admitted. The panel was satisfied that the statement was both relevant and probative, and that admitting it would assist in achieving a fair and accurate determination of the facts. The application to adduce the supplementary statement into evidence was therefore granted.

The panel considered the application to amend Charge 1(a), specifically to amend the date from 13 to 15, to reflect the evidence contained in the supplementary statement. The panel noted that the amendment relates to the same facts and circumstances already before it and does not alter the substance or nature of the allegation. The panel was satisfied that the amendment simply aligns the charge with the evidence presented, without causing any unfairness or prejudice to you. The panel also noted that the defence raised no objection to the proposed amendment. Accordingly, the application to amend Charge 1(a) was granted.

Details of charges as amended

That you, a registered midwife:

1. On the following dates whilst working a shift at Lewisham Hospital you self-administered/attempted to self-administer Entonox, which belonged to the Trust:

    a. 15 September 2022;
    b. On or about 28 September 2022.

2. Between 18 to 19 February 2023 whilst working a shift at Chelsea and Westminster Hospital you self-administered/attempted to self-administer Entonox;

3. Your actions at any of the charges at charge 1 and 2 above were dishonest in that:
    a. The Entonox belonged to Lewisham/Westminster and Chelsea Hospital;
    b. You took Entonox for your own use, which you knew you were not entitled to.

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

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

During the course of the hearing, Mr Trussler made an application to conduct parts of this hearing in private on the basis that proper exploration of your case involves reference to [PRIVATE]. He submitted that these are discreet matters that need to be heard in private. The application was made pursuant to Rule 19 of the Rules.

Ms Rashid did not object to 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 [PRIVATE], the panel determined to hold parts of the hearing in private as and when such issues are raised in order to protect your privacy.

Background

Charges 1(a) and (b) arose whilst you were working as a midwife for Lewisham and Greenwich Healthcare NHS Trust, at Lewisham Hospital (Lewisham).

With regards to 1(a), it is alleged that during the evening of 15 September 2022, another midwife working at Lewisham, Witness 4, entered a room on the labour ward looking for her glasses that she had mislaid. On entering the room, it is said that Witness 4 saw you holding the Entonox tube in your hand and that, on seeing Witness 4, you immediately threw the tube onto the bed.

With regards to 1(b), it is alleged that on 28 September 2022, another midwife working at Lewisham, Witness 3, heard sounds coming from an unoccupied room and on opening the door she saw you holding the Entonox tubing and sucking on the gas. Witness 3 described you as shocked to see her, flustered and disorientated and that you threw the tubing on the bed.

Charge 2 arose whilst you were working as a midwife at a different hospital, Chelsea and Westminster Hospital NHS Trust (Chelsea). The Labour Ward Coordinator, Witness 1, described hearing the very familiar sound of Entonox being used in a room that she thought was unoccupied. She was joined by a colleague, Witness 2, who also described hearing the very familiar sound of Entonox being used. Witness 1 opened the door, and they both saw you with the Entonox tubing and mouthpiece in your hands and that you were '*feverishly*' trying to put it away in its cupboard.

The NMC's case is that on these three occasions you were either self-administering or attempting to self-administer Entonox, which belonged to the respective hospitals. The NMC allege that your actions were dishonest in that you took the Entonox for your own use, and you knew you were not entitled to it.

Decision and reasons on facts

In reaching its decisions on the facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Ms Rashid and those made by Mr Trussler.

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 heard live evidence from the following witnesses called on behalf of the NMC:

- Witness 1: Employed by Chelsea as a Senior Midwife and Labour Ward Coordinator.
- Witness 2: Employed by Chelsea as a Band 6 Labour Ward Midwife.
- Witness 3: Employed by Lewisham as a Band 6 Midwife on the labour ward.
- Witness 4: Employed by Lewisham as a Band 6 Birth Centre Midwife.

- Witness 5: Employed by Lewisham as the Divisional Governance Manager in Allied Clinical Services.

- Witness 6: Employed by Lewisham as a Senior Matron for outpatient and phlebotomy services.

The panel also heard evidence from you under affirmation.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the witness and documentary evidence provided by the NMC and those by you.

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

Charge 1a

That you, a registered midwife:

1. On the following dates whilst working a shift at Lewisham Hospital you self-administered/attempted to self-administer Entonox, which belonged to the Trust:

    a. 15 September 2022;

This charge is found proved.

In reaching its decision, the panel carefully considered all the evidence, including the oral and written evidence of Witness 4, the investigation documentation, and your own account.

Witness 4 gave clear and consistent evidence. In both her written statement and oral testimony, she described entering an empty room in the labour ward after the end your shift and seeing you alone, holding Entonox tubing with a mouthpiece attached, in your hand. Witness 4 stated that when she entered, you appeared startled and threw the mouthpiece onto the bed. She noted that the room was empty and that this behaviour made her feel uncomfortable.

Although Witness 4 did not report the incident immediately, she explained that she later spoke to a trusted colleague and subsequently sent an email about the incident on 5 October 2022, supported by a contemporaneous note. The panel accepted this as credible and consistent with someone who was initially unsure how to handle a sensitive situation involving a colleague.

The panel found Witness 4 to be a fair and balanced witness. She gave her evidence in a straightforward and empathetic manner and acknowledged that this was not something she had expected to see. She also explained that she had known you since your student nursing days and had previously held a positive opinion of you. The panel saw no reason for Witness 4 to fabricate her account.

The panel noted that your initial explanation that you were simply preparing or restocking the room was not plausible in light of the evidence. It did not explain why you were alone in the room after the end of your shift, with the door closed, and with the Entonox tubing with a mouthpiece attached, in your hand. The panel also considered your suggestion that the doors to the rooms automatically closed, but found this explanation questionable in a clinical setting where rooms must remain accessible for patient care. This point had not been raised earlier in the investigation or during the hearing and had not been put to Witness 4 to give her an opportunity to comment on it. Instead, it was raised for the first time during your evidence.

The panel also noted that you said the same about the doors at the Chelsea hospital, but again that was not put to either of the witnesses, Witness 1 or Witness 2, and indeed was contrary to the evidence given by Witness 1, who said she had been in an out of the particular room and had left the door open. This led the panel to believe you

had invented this claim as a way of explaining why the doors were always closed in the rooms that you were found in.

The panel accepted that there were minor discrepancies in Witness 4's evidence, but found these to be understandable given the passage of time and the nature of the event. Her overall account was consistent, credible, and corroborated by the contemporaneous records and the investigation report.

By way of contrast, your evidence was vague, inconsistent and lacking in credibility. Although you had been working in Room 5, you had been on a Long Day shift with a handover between 8pm and 8.30pm. At the time of the handover Room 5 was empty and there was no obvious justification for why you should have been in that room sometime between 8.30pm and 8.50pm (when you took a selfie of yourself in civilian clothes before leaving the hospital). Witness 4 was clear that you looked shocked when she opened the door and no doubt that was because you had just been caught with the Entonox tubing in your hand. Your immediate reaction was to throw the tubing on the bed, no doubt to try and distance yourself from it, but by then Witness 4 had seen enough. Furthermore, as the room was not in use there should not have been a mouthpiece attached to the tube. They are kept separately, in plastic wrappers. Thus, you must have taken a mouthpiece, removed it from its wrapper and attached it to the tube.

Having considered all the evidence, the panel was satisfied, on the balance of probabilities, that you attempted to self-administer Entonox on 15 September 2022 whilst on duty. There was no evidence on this charge that Entonox was actually self-administered.

The panel therefore found this charge proved on the basis of an attempt.

Charge 1b)

b. On or about 28 September 2022.

This charge is found proved.

The panel took into account the statements and oral evidence of Witness 3 and Witness 4, as well as the documentation from the local investigation.

Witness 4 confirmed that she had sent an email and had been interviewed as part of the investigation. Her evidence was consistent with her earlier reports and supported the general sequence of events. The panel found her to be a neutral and independent witness. Witness 4 did not actually witness the event on 28 September 2022.

The panel then considered the evidence of Witness 3, who did witness the events on that day. She gave a clear, detailed and compelling account. She explained that she went looking for you because a doctor had been trying to find you during the shift. When she located you in an empty room, with the door closed, she heard the distinctive sound of Entonox being used, a sound very familiar to midwives who hear it being used on a regular basis on the labour ward. Witness 3 said she opens the door and saw you holding the mouthpiece attached to the Entonox tubing and she said you were sucking on the gas. Witness 3 described feeling shocked by what she saw. She said you also appeared shocked and threw the tubing behind the bed when she entered. She said you appeared very flustered and disoriented and as you approached her you were unbalanced and fell slightly, knocking into a bin. Witness 3 said she was unsure of how to handle the situation. She was upset about what she had witnessed and asked you why you were doing this. Witness 3 said you apologised and appeared distressed. Witness 3 said she felt the best thing to do at that time was to ask you to go to the labour ward theatre recovery room to gain composure, which you did. In the recovery room Witness 3 said you were apologetic and when asked why you would do this whilst at work you assured Witness 3 that you were not the kind of person to do this kind of thing and you appeared really concerned that Witness 3 would escalate matters.

The panel found Witness 3’s evidence to be confident, articulate, and reliable. She had a clear recollection of what she saw and heard, and her account was consistent between her written statement and oral evidence. The panel noted that she reported the

incident towards the end of her shift and had no reason to fabricate or exaggerate her account. Her evidence was detailed and persuasive.

Your explanation, by contrast, was vague and lacking in substance. You denied that there had been a mouthpiece present, but you did not provide a clear or plausible account of what had occurred or why you had been in the room. In your statement, you referred to [PRIVATE]. However, you were not clear about this in your oral evidence. The panel found your version of events less credible when compared to the consistent and detailed account given by Witness 3.

Taking all of the evidence into account, the panel accepted Witness 3's account that she both heard and saw you using Entonox and that you were affected by its effects. On the balance of probabilities, the panel was satisfied that you self-administered Entonox on or about 28 September 2022 while on duty.

The panel therefore found this charge proved on the basis that you were self-administering Entonox.

Charge 2

> Between 18 to 19 February 2023 whilst working a shift at Chelsea and Westminster Hospital you self-administered/attempted to self-administer Entonox;

This charge is found proved.

In reaching its decision, the panel took into account the written and oral evidence of Witness 1 and Witness 2, as well as the contemporaneous DATIX report and your own account.

Witness 1 gave clear, confident, and consistent evidence. Her initial statement and her additional account were both written close in time to the events and were consistent with each other. She described the ward as unusually quiet that night. Shortly before

midnight, at around 23:30, she went for a walk around the unit to stretch her legs. In her written statement to the NMC, she said:

> *'Prior to midnight, at about 23:30, I went for a little walk around the unit to get some steps in before the end of the day. I went up and down the corridor outside the labour ward, went up to the postnatal unit and did a few laps, and then came back down to the labour ward. I was standing outside room nine, which is located between the labour ward and the antenatal ward, and started marching on the spot. It was very quiet as no one was around. Throughout the night, I had been using the toilet in room nine because it is right opposite the labour ward, so I had been in and out of the room a few times. While I was marching on the spot, I noticed that the door to room nine was closed. As I had been in and out of the room all night, I had been leaving the door open. I thought that maybe someone else had gone into the room to take a quick phone call or to have a sit down and then thought that I should go in to ask what was going on, as the room was supposed to be clean and empty.'*

Witness 1 explained that as she approached the room, she heard a distinctive sound which she immediately recognised as Entonox being used.

She described it being used in a '*fervent manner*' that could be heard very clearly through the door. It was a sound that, as a midwife, was very familiar to her and unmistakable. Whilst listening to the Entonox being used she was joined by Witness 2 and Witness 1 asked Witness 2 if she could hear it too and Witness 2 said she could. Witness 1's first reaction was panic as she feared someone had come in as an emergency whilst she had been on a walk around the unit and they had been unable to get hold of her. Witness 1 said she *'flung'* the door open and saw you holding the Entonox tubing attached to the wall and with a mouthpiece in your hands. Witness 1 described how you appeared to be startled, and she then saw you *'feverishly'* trying to put the Entonox tubing away in the cupboard, where it is usually stored.

When she entered, she saw you inside. You appeared disoriented, were not coherent, and stumbled as you moved. Witness 1 said she was shocked by what she saw. In her written statement she added:

> *'I was so shocked by what I was seeing and stood with my mouth wide open. Olanike seemed very disoriented and said that she was sorry and that she had been looking for something. She picked up a birthing ball and said that the ball was what she was looking for, for a woman on the postnatal ward. She corrected herself and said it was for a different woman on the postnatal ward, but then corrected herself again and said the first woman's name. She put the ball down and left the room, tripping up on her way out, leaving myself and Sumayyah with our mouths wide open.'*

Witness 1 reported the incident to the on-call manager very soon after the incident and completed a DATIX report the following morning. The panel noted that her DATIX record was consistent with both her written statement and oral evidence.

Witness 2's evidence supported that of Witness 1. She described hearing the distinctive sound of Entonox being used and seeing you in the room. In her oral evidence, she said you were holding the tubing with the mouthpiece attached and that you appeared confused and unsteady on your feet. Both witnesses stated that you did not seem to know where you were and that you tripped as you left the room. The panel found both witnesses to be credible, confident, and reliable. Their accounts were consistent with each other and with the contemporaneous documents.

Your account was inconsistent, vague, and lacking in detail. You suggested that people at Lewisham were keeping an eye on you and that rumours were circulating about your use of Entonox. The panel did not find this explanation credible. This incident occurred at a different hospital from the one involved in the other charge, and both witnesses confirmed that they had heard no such rumours.

You said that you entered that room twice that evening looking for various types of birthing balls. You said the room was in darkness except for a bit of light coming from

the bathroom. Notwithstanding that, you claimed you entered the darkened room without turning the light on, the door automatically closed behind you and you went to the bathroom to collect the ball. The panel did not find any of that account to be credible. It has already made reference to it being questionable that the doors to labour rooms would automatically close and in any event this was inconsistent with the account given by Witness 1, as detailed above. The panel was satisfied that your account of being in the room to collect a birthing ball was fabricated and done in a clumsy attempt to cover up what you were actually doing, that is to say using the Entonox.

The panel also noted the advice of the legal assessor regarding cross-admissibility, specifically, whether evidence from other allegations could be used to establish a pattern of behaviour or to rebut coincidence. The panel concluded that the evidence relating to each incident was sufficiently strong and self-contained that it did not need to rely on cross-admissibility to reach its decisions on any of the charges. However, having made its decisions, it was clear that your conduct represented a pattern of behaviour across two different hospitals over a period of six months.

Having considered all of the evidence, the panel accepted the consistent, contemporaneous, and compelling accounts of Witness 1 and Witness 2. It found that you were alone in the room, that you were heard using Entonox and found to be holding Entonox tubing with the mouthpiece attached. Furthermore, your behaviour in terms of feverishly trying to put the tubing in the cupboard and your presentation of being disorientated were consistent with the illicit use of Entonox. On the balance of probabilities, the panel was satisfied that you self-administered Entonox while on duty between 18 and 19 February 2023.

The panel therefore found this charge proved on the basis of having been self-administered.

Charge 3

> Your actions at any of the charges at charge 1 and 2 above were dishonest in that:

a. The Entonox belonged to Lewisham/Westminster and Chelsea Hospital;
b. You took Entonox for your own use, which you knew you were not entitled to.

This charge is found proved.

The panel considered the allegation that your actions in relation to the charges were dishonest because the Entonox you self-administered belonged to the Hospitals and you took it for your own use in the knowledge that you were not entitled to do so.

In reaching its decision, the panel took into account the evidence considered for charges 1(b) and 2. It was satisfied that the Entonox involved in charge 1(b) belonged to Lewisham Hospital and that the Entonox involved in charge 2 belonged to Chelsea and Westminster the Hospital.

With regards to 1(a), there was no conclusive evidence that you had actually used Entonox on the night you were discovered by Witness 4 and accordingly the dishonesty charge is not made out.

With regards to 1(b) and 2, the panel was satisfied that the Entonox involved was not prescribed to you and that you self-administered it on 28 September 2022 and on the night of 18 February 2023. From the evidence, the panel drew the inference that you took it for personal use. You would have known that it was not for your use and the fact that you did so secretively supports the conclusion that your actions were dishonest.

The panel also considered the manner in which you administered the Entonox. It noted that there was an element of planning and premeditation, as you selected rooms that were empty, you went into them alone and closed the door behind you. Once in the room you selected a mouthpiece, removed it from its wrapper and attached it to the tube. On 28 September 2022, you were actually seen sucking on the mouthpiece and, on the night of 18 February 2023, you were heard using it aggressively and then seen

holding the tube and mouthpiece in your hand. On both occasions when being discovered you hastily tried to discard the tubing. Your subsequent behaviour demonstrated that you were under the influence of Entonox.

It was clear to the panel that your motive was to use Entonox. Because you denied it, the panel did not know why you had felt the need to use Entonox, but was satisfied that you took it for your own use in the knowledge that it was not yours to take. The panel was satisfied that an ordinary, reasonable person would view this behaviour as dishonest.

The panel therefore found the charge of dishonesty proved in relation to charge 1(b) and 2.

Misconduct and impairment

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether your fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, your fitness to practise is currently impaired as a result of that misconduct.

You gave evidence on the question of impairment under affirmation.

You confirmed that you are currently working as a community midwife with Lewisham and Greenwich NHS Trust and that your CV in the bundle is accurate. You explained that, while conditions have been in place, you have not worked in a hospital setting, aside from a small number of shifts as a nurse after your conditions were amended. You said that you chose to return to community work for personal reasons.

You told the panel that the conditions on your practice, although challenging, [PRIVATE] by giving you clear boundaries. You said you have fully complied with them and were well supported by your team. You confirmed that your reflective statement was true and signed in October 2025, and you maintained your denial of using Entonox as alleged.

You explained that you completed training focused on honest communication and trust-building. You said the training helped you improve how you communicate with colleagues, document care, and avoid misunderstandings. You confirmed you have also completed mandatory refresher training and said you take public confidence in the profession very seriously.

You accepted that the findings could cause concern for patients and the public, as nursing and midwifery rely on trust. You explained that you now double check decisions, communicate openly, and document clearly. You gave an example of a patient who became aware of the allegations but continued to trust you based on the care you provided.

You told the panel that working in the community renewed your passion for antenatal education and supporting women. You said the process has strengthened your focus on transparency, accountability, and escalation of concerns, and you gave an example of appropriately escalating care for a baby with jaundice. You said that, despite continuing to deny the allegations, you have learned important lessons that have improved your practice.

Submissions on misconduct

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

Ms Dunn submitted that whether the facts found proved amount to misconduct is a matter for the panel’s professional judgment. She reminded the panel that misconduct is conduct that falls seriously short of what would be proper in the circumstances, as set out in established case law. She said the panel would be assisted by considering whether your actions departed significantly from expected professional standards.

Ms Dunn submitted that your conduct should be assessed against the NMC Code. She said the Code requires registrants to minimise risks to patients, take reasonable precautions to avoid harm, and uphold the reputation of the profession by acting with honesty and integrity at all times. Ms Dunn took the panel to the several paragraphs in the Code and submitted that these had been breached in your case.

Ms Dunn submitted that the panel has found that you knowingly and intentionally used Entonox on two occasions while on duty, and attempted to use it on a further occasion. She said you knew the Entonox belonged to the hospitals and was intended for patient use only. She submitted that your actions placed vulnerable pregnant women at risk and jeopardised patient safety, particularly as you were under the influence of Entonox while responsible for patient care.

Ms Dunn further submitted that honesty is central to professional practice and that your conduct involved dishonesty directly linked to your clinical role. She highlighted that the behaviour was repeated across two employers and involved steps to conceal it. She submitted that this represented a serious departure from professional standards and therefore amounted to misconduct.

Mr Trussler submitted that he did not dispute that the facts found by the panel are capable of amounting to misconduct. He explained that, in light of the panel’s findings, he did not take issue with Ms Dunn’s submissions on misconduct and accepted that the panel would be entitled to reach such a conclusion.

Mr Trussler submitted that you have been candid in maintaining your position and continuing to deny the allegations. He explained that this limits the extent to which remediation can be demonstrated, but that maintaining your position should not itself be treated as further dishonesty. He submitted that, if you were now to admit conduct you maintain did not occur, that would itself be dishonest.

Mr Trussler accepted that there was a potential risk of harm in what the panel found you had done, but submitted that this risk was limited. He reminded the panel that no actual harm to any patient occurred and that, on at least one occasion, you were able to return immediately to clinical duties when asked, suggesting that any impairment at the time was short-lived.

Mr Trussler submitted that the real concern in this case was not the loss of a small amount of Entonox, but the possible effect its use could have had on your ability to practise safely. He accepted that such conduct could bring the profession into disrepute, but submitted that the seriousness must be considered in context and alongside the absence of patient harm.

Submissions on impairment

Ms Dunn moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Ms Dunn submitted that impairment is a forward-looking assessment and that the key question is whether you can practise safely, kindly, and professionally. She invited the panel to consider both public protection and the wider public interest. She submitted that all four questions from the Grant test could be answered "*yes*" in your case.

Ms Dunn submitted that your actions placed patients at risk of harm by causing temporary intoxication while you were on duty caring for pregnant women. She said that even the attempted use of Entonox took you away from your duties. She also submitted that Entonox can be addictive, creating a future risk that focus could shift away from patients.

Ms Dunn submitted that your conduct undermined public confidence and brought the profession into disrepute. She said registered professionals are trusted to act honestly and to ensure they are fit to practise at all times. She further submitted that your actions breached fundamental professional standards, including acting with honesty and ensuring patient safety.

Ms Dunn acknowledged that you have complied with restrictions and that there is positive evidence of your clinical competence. However, she submitted that the concerns in this case are attitudinal and therefore harder to remediate. She said your continued denial, limited insight, and lack of targeted training meant the risk of repetition had not been sufficiently addressed. She submitted that a finding of impairment is necessary on both public protection and public interest grounds to uphold professional standards and maintain public confidence in the profession.

Mr Trussler submitted that your fitness to practise is not currently impaired. He reminded the panel that impairment is a forward-looking assessment and that a significant period of time has passed since the last incident in February 2023, with no further concerns raised.

Mr Trussler submitted that your conduct since that time strongly supports a finding of no current impairment. He pointed to positive testimonials, particularly from your line manager, which describe you as a competent, effective, and professional community midwife. He submitted that this demonstrates that, even if impairment existed in the past, it no longer does.

Mr Trussler addressed the criticism of your reflective statement and submitted that reflection is necessarily limited where a registrant maintains their innocence. He

rejected the suggestion that your reflection was self-centred, submitting that you did acknowledge the seriousness of the allegations, undertook relevant training, and demonstrated insight. He said that the personal impact of the process was relevant to assessing future risk and did not amount to an attempt to seek sympathy.

Mr Trussler submitted that the risk of repetition is low. He noted that you intend to continue working in the community, where access to Entonox is very limited. He explained that, if involved in home births in the future, Entonox would be controlled by the home birth team and you would not be alone. He submitted that, taken together, these factors support a finding that your fitness to practise is not currently impaired, or that any impairment would be extremely limited.

Decision and reasons on misconduct

The panel accepted the advice of the legal assessor.

In coming to its decision on misconduct, the panel noted that there is no statutory definition of misconduct but that misconduct is defined in the authority of *Roylance v General Medical Council (No. 2)* [2000] 1 AC 311 which defines misconduct as a:

> *'word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a [nursing] practitioner in the particular circumstances. The misconduct is qualified in two respects. First, it is qualified by the word 'professional' which links the misconduct to the profession of [nursing]. Secondly, the misconduct is qualified by the word 'serious'. It is not any professional misconduct which will qualify. The professional misconduct must be serious.'*

The panel noted that Mr Trussler, on your behalf, conceded the question of misconduct in the course of his submissions. However, notwithstanding this concession the question of misconduct remains a matter for the panel's judgement and this is expressly laid down in Rule 24(12) of the Rules.

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

The panel carefully considered whether your conduct amounted to misconduct. In doing so, the panel applied its professional judgment and assessed your actions against the standards expected of a registered nurse and midwife. The panel determined that your conduct did fall significantly short of those standards and that your actions amounted to breaches of the NMC Code. The panel identified the following specific provisions of the Code as having been breached:

> *'**19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice***
> *To achieve this, you must:*
> *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***
> *To achieve this, you must:*
> *20.1 keep to and uphold the standards and values set out in the Code*
> *20.2 act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment*
> *20.3 be aware at all times of how your behaviour can affect and influence the behaviour of other people*
> *20.8 act as a role model of professional behaviour for students and newly qualified nurses and midwives to aspire to.'*

The panel acknowledged that not every breach or breaches of the Code will automatically amount to misconduct. However, the panel was of the view that the breaches in this case were serious in nature and could not be characterised as minor or isolated. The panel considered the context in which the conduct occurred, including the

fact that you were on duty, in a clinical environment, and responsible for the care of pregnant women, some of whom may have been particularly vulnerable.

The panel determined that you took unreasonable and unnecessary risks with patient safety by working while under the influence of Entonox. The panel noted that the charges found proved were not limited to a single lapse but involved repeated behaviour over a period of time. The panel was particularly concerned that you knowingly used Entonox, a medication intended for patient use only, while on duty. In doing so, you failed to take reasonable personal precautions to protect patients and the public from the risk of harm. The panel was satisfied that this behaviour exposed patients to an unwarranted risk of harm, even if no actual harm was ultimately identified.

The panel also considered the wider impact of your conduct on the reputation of the profession and your work colleagues. The panel was of the view that your actions undermined the trust placed in registered professionals to act with honesty, integrity, and professionalism at all times. The panel noted that working under the influence of a drug and dishonestly using hospital property for personal use represents a serious departure from the standards expected of a registered midwife. The panel further considered that such behaviour has the potential to negatively influence colleagues and seriously damage public confidence in the profession.

Taking all of these matters into account, the panel stated that the breaches of the Code were sufficiently serious that your conduct fell far below the standards expected of a registered nurse and midwife and therefore amounted to misconduct.

Decision and reasons on impairment

The panel next considered whether, as a result of the misconduct found proved, your fitness to practise is currently impaired. In reaching its decision, the panel had regard to the NMC's guidance 'Impairment' (referenced DMA-1) last updated on 3 March 2025.

The panel noted that there is no statutory definition of impairment but that the above guidance posits the following question for a panel to answer:

‘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 also reminded itself of the position held by midwives and the high level of trust placed in them by patients and the public.

Midwives 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 midwives with their lives and the lives of their loved ones. To justify that trust, midwives 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 assessing impairment, the panel took into account the judgment of Mrs Justice Cox in *CHRE v NMC and Grant*. The panel considered paragraph 74, which states:

‘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.’

The panel also applied Dame Janet Smith’s test, as referred to by Mrs Justice Cox in paragraph 76:

‘Do our findings of fact in respect of the [nurse’s] misconduct, ….show that her fitness to practise is impaired in the sense that she:

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 noted that the above test is firstly backward looking and then considers the present and future.

The panel first considered the test looking backward. The panel noted that by self administering Entonox that it had the potential to cause unwarranted harm to patients because it may have affected your ability to give the proper level of care to your patients. The panel also noted that you acted dishonestly and therefore the fourth limb of the test is engaged when looking backward. The panel considered that as a result the other two limbs of the test when looking backward are engaged as the Code has been breached and the profession has been brought to disrepute.

The panel next applied the test looking at the situation today and going forward. The panel when considering the test also considered *Cohen v GMC* [2007] EWHC 581 (Admin). *Cohen* requires the panel to ask itself whether the misconduct is easily remediable; whether it has been remediated by strengthening of practice; and whether the misconduct would be highly unlikely to be repeated.

In considering the Shipman test, the panel firstly asked itself whether the misconduct is easily remediable. The panel considered that the misconduct is capable of being remediable but noted that when dishonesty is found that this is difficult to address and requires clear and cogent evidence that it has been fully mitigated.

The panel noted, through Mr Trussler, that you do not accept that you self-administered or attempted to self-administer Entonox which was obtained dishonestly from your employers and continue to deny the charges.

Given that you continue to deny the charges, the panel noted the NMC guidance *'Has the concern been addressed?'* (FTP-15b), last updated 29 November 2021 which stated as follows:

> *'Where a panel has found that a nurse, midwife or nursing associate was responsible for incidents that they denied (or continue to deny), this should not bar the nurse, midwife or nursing associate from being able to show insight. They may not have insight into the particular events that occurred, but they may be able to show insight by having an understanding of the need to minimise the risk of similar events occurring in the future, and the steps that might be taken to achieve this.'*

The panel also noted the following passage in the same guidance:

> *'Does the nurse, midwife or nursing associate acknowledge:*
> *o any harm or risk of harm, to patients?*
> *o any damage to public confidence in the professions?*
> *o how far their conduct or practice fell short of professional standards?*
> *o…'*

In considering the above bullet points, the panel carefully considered your evidence, in particular your evidence under affirmation and your reflective piece, and whether you have provided sufficient remorse and insight notwithstanding you continuing to deny the charges.

The panel gave careful regard to your evidence which included your sworn evidence, statement, reflective piece, training, feedback, and report from your line manager.

The panel assessed your level of insight and remorse. While the panel acknowledged that you have the right to maintain your denial of the charges, it was of the view that in your reflective statement and your sworn evidence you did not step back from the situation and look objectively at the problems that need to be addressed. The panel was not satisfied that you had adequately demonstrated an understanding of the seriousness of your conduct, the risks posed to patients, nor an understanding of how you would act differently in the future to avoid similar problems happening or considered the wider impact on work colleagues and public confidence in the profession. The panel therefore decided that your remorse and insight is limited at this stage.

The panel also considered the testimonials and line manager's reports provided on your behalf. While these spoke positively about your general clinical practice, the panel noted that they did not address whether you could practise safely and professionally in settings where Entonox is available, nor did they sufficiently address the concerns arising from the charges found proved. In particular, the panel noted that the question of your dishonesty is not raised nor discussed in these documents and any attendant attitudinal issues.

The panel was satisfied that in the absence of clear and cogent evidence of strengthening of practice through remorse, insight and relevant training that there remains a risk of repetition.

The panel determined that all four limbs of the Shipman test are engaged when considering the situation today and going forward. In all the circumstances, the panel determined that your fitness to practise is currently on public protection grounds.

The panel considered that a member of the public would be seriously concerned to learn that a midwife had taken Entonox from the Trust and self-administered it whilst on duty. The public would expect the regulator to take action to maintain safety and confidence in the profession. The panel concluded that a failure to make a finding of impairment would undermine public confidence and bring the profession and the NMC into disrepute. The panel determined that a finding of impairment is also required in the public interest.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired.

Sanction

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

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance published by the NMC.

Submissions on sanction

Ms Dunn submitted that a striking-off order is the only appropriate sanction in your case. She identified several serious aggravating features: your conduct put vulnerable patients at risk of harm; it involved planning and premeditation; and it formed a pattern of misconduct across two employers over a six-month period. She also submitted that you breached trust by using a drug while responsible for patient care, that your defence was rejected as inherently dishonest, and that you have shown only limited insight.

Ms Dunn submitted that there is only one mitigating factor, namely that you have no previous findings of misconduct. She argued that this single factor carries limited weight when set against the seriousness of the concerns. Having considered the available sanctions in ascending order, she submitted that this is not a case where no action, or a caution order, would be appropriate, given the ongoing risk to the public and the lack of sufficient remediation.

Ms Dunn submitted that a conditions of practice order would also be inappropriate because your misconduct does not relate to clinical competence but to attitudinal and integrity concerns. She argued that there are no workable or proportionate conditions that could address dishonesty and misuse of drugs while on duty. She further submitted

that, although you have not repeated the behaviour since 2023, your current work is restricted to a community setting where Entonox is not routinely used, meaning you have not been assessed in a similar environment.

Ms Dunn submitted that neither a suspension order nor any lesser sanction would adequately protect the public or maintain confidence in the profession. She submitted that premeditated dishonesty, particularly when repeated across different employers, fundamentally undermines trust.

In light of the seriousness of the misconduct, the ongoing concerns about insight and risk of repetition, she submitted that a striking-off order is the only sanction sufficient to protect the public and uphold professional standards.

Mr Trussler acknowledged that the panel had found a risk of harm and a breach of trust, but he asked the panel to look carefully at the nature of the dishonesty in this case. He submitted that you are not a generally dishonest person, as this was not a case involving falsified records or theft, and that the dishonesty found was limited to the allegations themselves. He further submitted that you should not be criticised simply for maintaining your denial and challenging the case against you.

Mr Trussler submitted that a striking-off order would be significantly disproportionate. Whilst accepting the seriousness of the findings, he emphasised that you have worked as a community midwife for nearly three years without any further incidents. He described you as a hard-working and effective midwife and submitted that this period of safe practice shows progress, even if the panel has found that your insight remains limited.

Mr Trussler submitted that the risks identified by the panel can be properly managed through conditions of practice. He suggested conditions restricting you from having control over or unsupervised access to Entonox, noting that your current role rarely brings you into contact with it and that, even at home births, you act in an assisting role only. He also proposed further reflection, supervision, and regular reporting to your employer and to the NMC as part of any conditions imposed.

Mr Trussler submitted that this is a balancing exercise between public protection and proportionality. He accepted that this was not a single incident, but argued that the behaviour is now historic and that the specific risk has already been managed successfully for several years.

Mr Trussler submitted that conditions would continue to protect the public and allow you to remain a valuable member of the profession, and a striking-off order would therefore be unnecessary and excessive.

Decision and reasons on sanction

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

Having found your fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Misconduct which was capable of putting patients at risk of serious harm
- There is a pattern of misconduct over two hospitals in separate Trusts and over a period of six months
- The conduct is premeditated in that you had to find empty rooms and go there in order to self-administer Entonox
- There is limited insight into the misconduct and a lack of understanding of the impact on the public, your work colleagues and the profession, and no insight on how you would minimise future occurrence

The panel also took into account the following mitigating features:

- There are no previous regulatory findings against you
- Since February 2024, you had followed the principles of good practice under an interim conditions practice order which restricted your access to Entonox

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

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case.

The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel noted the NMC guidance 'Conditions of practice order' (Ref SAN-3c) which sets out when conditions of practice are appropriate:

> *'The key consideration for the panel, before making this order, is whether conditions can be put in place that will be sufficient to protect patients or service users, and if necessary, address any concerns about public confidence or proper professional standards and conduct.*
>
> *Conditions may be appropriate when some or all of the following factors are apparent (this list is not exhaustive):*
>
> - *no evidence of harmful deep-seated personality or attitudinal problems*

- *identifiable areas of the nurse, midwife or nursing associate's practice in need of assessment and/or retraining*
- *no evidence of general incompetence*
- *potential and willingness to respond positively to retraining*
- *the nurse, midwife or nursing associate has insight into any health problems and is prepared to agree to abide by conditions on medical condition, treatment and supervision*
- *patients will not be put in danger either directly or indirectly as a result of the conditions*
- *the conditions will protect patients during the period they are in force*
- *conditions can be created that can be monitored and assessed.*'

The panel has been made aware by Mr Trussler that you have been subject to an interim conditions of practice order and that there has been no repetition of your misconduct. However, all charges have now been proved and the panel must consider your misconduct in light of the facts found proved and the evidence you provided at the impairment stage.

The panel noted that your misconduct relates to repeated misuse of a drug whilst on duty and dishonesty and is therefore attitudinal in nature rather than relating to your clinical practice and competence. The panel decided at the impairment stage that your insight is limited and the attitudinal problems surrounding your misconduct have not been fully acknowledged nor adequately addressed. In this regard, the panel noted that this is not a health case and at no stage during the hearing have you stated that you have a problem with Entonox. Consequently, it is not open to the panel to impose conditions which could monitor and assess your performance whilst receiving medical treatment and/or supervision and thereby protect patients. Further, the panel noted that it must address the question of public confidence and the maintenance of professional standards of the professions and decided that this cannot be met by a conditions of practice order.

The panel therefore concluded that conditions of practice would not adequately protect the public or mark the seriousness of the misconduct found proved.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The NMC guidance 'Suspension order' (Ref SAN-3d) states that when a panel is considering a suspension order it should deliberate on the following factors:

> *'Key things to weigh up before imposing this order include:*
>
> *• whether the seriousness of the case requires temporary removal from the register?*
>
> *• will a period of suspension be sufficient to protect patients, public confidence in nurses, midwives or nursing associates, or professional standards?'*

'Use the checklist below as a guide to help decide whether it's appropriate or not. This list is not exhaustive:

- *a single instance of misconduct but where a lesser sanction is not sufficient*
- *no evidence of harmful deep-seated personality or attitudinal problems*
- *no evidence of repetition of behaviour since the incident*
- *the Committee is satisfied that the nurse, midwife or nursing associate has insight and does not pose a significant risk of repeating behaviour*
- *in cases where the only issue relates to the nurse, midwife or nursing associate's health, there is a risk to patient safety if they were allowed to continue to practise even with conditions*
- *in cases where the only issue relates to the nurse, midwife or nursing associate's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions*'

The panel carefully considered all of these criteria and applied them to the facts of your case. It concluded that they were not met. The misconduct was not a single incident but a course of conduct over six months in two hospitals at two separate Trusts. The panel had found dishonesty and limited insight into that dishonesty, which it considered indicative of ongoing attitudinal concerns. As a result, the panel determined that there remains a real risk of repetition.

The panel therefore concluded that the criteria for imposing a suspension order were not met and that a suspension would not be sufficient to protect the public or maintain confidence in the profession.

Finally, in looking at a striking-off order, the panel took note of the following paragraphs from the NMC guidance 'Striking-off order' (Ref SAN-3e):

'This sanction is likely to be appropriate when what the nurse, midwife or nursing associate has done is fundamentally incompatible with being a registered professional.

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?'*

The panel addressed the questions set out in the guidance.

> *'• Do the regulatory concerns about the nurse, midwife or nursing associate raise fundamental questions about their professionalism?'*

The panel concluded that the dishonesty found proved, which has not been addressed through sufficient insight or remediation, raises fundamental concerns about your professionalism, honesty, and integrity.

> *'• Can public confidence in nurses, midwives and nursing associates be maintained if the nurse, midwife or nursing associate is not struck off from the register?'*

The panel concluded that a well-informed member of the public knowing all the facts of this case would be greatly concerned if you are not struck off the register as your misconduct goes to fundamental aspects of midwifery.

‘• Is striking off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?’

The panel concluded that, given the nature of the misconduct found proved, no lesser sanction would be sufficient.

The panel carefully considered proportionality and determined that striking off is the minimum sanction that adequately protects patients and the public, maintains professional standards, and upholds confidence in the profession.

The panel concluded that your actions were serious departures from the standards expected of a registered midwife and are fundamentally incompatible with remaining on the register. The panel determined that there are regulatory concerns which raise fundamental questions about your professionalism, honesty, and integrity. It concluded that, if the behaviour were repeated, patients would not be safe and public confidence in the profession and the NMC would be undermined. Accordingly, the panel decided that a striking-off order is the only sanction which will be sufficient to protect patients members of the public, and to maintain professional standards.

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 midwife.

This decision will be confirmed to you in writing.

Interim order

As the substantive 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 is in your own interests until the substantive suspension order takes effect.

Submissions on interim order

The panel took account of the submissions made by Ms Dunn. She submitted that an interim suspension order is necessary to cover the period until the substantive suspension order comes into effect having regard to the panel's findings. She submitted that if you appeal the decision of the panel, then you would be able to practise without restrictions until the appeal process is finished and this can take up to 18 months. She therefore invited the panel to impose an order for a period of 18 months to cover the whole of the appeal period.

Mr Trussler opposed the application for an interim suspension order. He submitted that the current interim conditions of practice order should be imposed and it would be the more appropriate and proportionate course at this stage. He noted that the current conditions have been operating effectively, with no issues or concerns arising since their imposition.

Mr Trussler further argued that an interim suspension would cause unnecessary prejudice, as it would result in you being suspended from practice and potentially losing your employment, even if any subsequent appeal were successful. By contrast, the continuation of the existing interim conditions of practice would not prejudice the determination of the substantive findings and would adequately address any perceived risk.

Decision and reasons on interim order

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

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that the only suitable interim order would be a suspension order, as to do otherwise would be incompatible with its earlier findings. The interim suspension order will be for a period of 18 months to cover the appeal period and any appeal.

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

That concludes this determination.