

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

**Substantive Hearing**

**5 - 14 August 2019**

Nursing and Midwifery Council, 2 Stratford Place, Montfichet Road, London, E20 1EJ

<b>Name of registrant:</b>	Sharon Diana Nicholls
<b>NMC PIN:</b>	86H0702E
<b>Part(s) of the register:</b>	Registered Nurse – Sub part 1 – Adult Nursing (29 November 1989)  Registered Nurse – Sub part 1 – Children’s Nursing (07 July 1992)
<b>Area of Registered Address:</b>	England
<b>Type of Case:</b>	Misconduct
<b>Panel Members:</b>	Anthony Griffin (Chair, Lay member) Susan Tokley (Registrant member) Mahjabeen Agha (Lay member)
<b>Legal Assessor:</b>	Martin Goudie QC
<b>Panel Secretary:</b>	Kelly O’Brien
<b>Mrs Nicholls:</b>	Present and represented by Mr Justin Meiland, instructed by Royal College of Nursing (RCN)
<b>Nursing and Midwifery Council:</b>	Represented by Katie Mustard, Case Presenter
<b>Facts proved:</b>	<b>1, 2, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20</b>
<b>Facts proved by admission:</b>	<b>7, 9, 19</b>
<b>Facts not proved:</b>	<b>3, 4, 5</b>
<b>No case to answer:</b>	<b>6</b>

**Fitness to practise:**

**Impaired**

**Sanction:**

**Striking off order**

**Interim Order:**

**Suspension order (18 months)**

## Details of charges (as amended)

That you, a registered Nurse:

1. On or around 18th August 2015 provided an application form to Your World Recruitment Agency in which you denied that you had ever been suspended by a professional body. **[proved]**
2. Your conduct at Charge 1 above was dishonest in that, when you signed the said form, you knew you had previously been suspended from practice by the Nursing and Midwifery Council and your conduct was designed to conceal this fact. **[proved]**
3. Between 21st July 2016 and March 2017 altered a letter containing an offer of employment to you from Tynemouth Medical Practice dated 21st July 2016 in that you amended the salary stated therein from £40,000 to £50,000. **[not proved]**
4. In or around March 2017 you produced a hard copy of the altered letter referred to in Charge 3 above to one or more of the partners of Tynemouth Medical Practice. **[not proved]**
5. Your conduct at Charges 3 and/or 4 above was dishonest in that:
  - a. You knew that you had been offered a salary of £40,000 in the original letter dated 21st July 2016; and
  - b. You intended to deceive the partner(s) into believing that the letter which you had altered was the original letter that you had received;

and your conduct was designed to secure a higher salary than the one agreed in July 2016. **[not proved]**

6. On 28th November 2017 you failed to remove the entirety of Patient A's Intra-Uterine Device. **[no case to answer]**

7. On or around 21st January 2018 you provided your Curriculum Vitae to the dual Practice Manager of Aldersbrook Medical Centre and Greenwich Peninsula Practice in which you stated that you held the following qualification:-

i. 2007 London South Bank University BSc Nurse Practitioner.  
**[admitted]**

8. Your conduct at Charge 7 above was dishonest in that you knew you did not hold such a qualification and your conduct was designed to secure employment.  
**[proved]**

9. On or around 21st January 2018 you provided your Curriculum Vitae to the dual Practice Manager of Aldersbrook Medical Centre and Greenwich Peninsula Practice in which you failed to disclose that you had been employed by Tynemouth Medical Practice between 1st August 2016 and 11th December 2017. **[admitted]**

10. Your conduct at paragraph 9 above was dishonest in that you had been employed by Tynemouth Medical Practice between 1st August 2016 and 11th December 2017 and by your conduct you sought to conceal the fact you had been dismissed from that employment. **[proved]**

11. At an employment interview on 2nd February 2018 you stated that:- **[proved]**

- a. You had been awarded an advanced nursing qualification; and/or
- b. You had been awarded a Diploma in Asthma; and/or
- c. You had been awarded a Diploma in Diabetes.

12. Your conduct at 11(i) and/or 11(ii) and/or 11(iii) above was dishonest in that you knew you had not been awarded:-

- a. An advanced nursing qualification; and/or
- b. A Diploma in Asthma; and/or
- c. A Diploma in Diabetes

and your conduct was designed to secure employment. **[proved]**

13. At an employment interview on 2nd February 2018 you did not disclose that you had previously been suspended from practise by the Nursing and Midwifery Council. **[proved]**

14. Your conduct at Charge 13 above was dishonest in that you knew that you had previously been suspended from practise by the Nursing and Midwifery Council and you sought to conceal this information in order to secure employment. **[proved]**

15. In a "Professional Body Registration Form" from Integral Medical Holdings dated 14th February 2018 you did not disclose that you had previously been suspended from practise by the Nursing and Midwifery Council for 12 months in 2012. **[proved]**

16. Your conduct at Charge 15 above was dishonest in that you knew that the Nursing and Midwifery Council had suspended you from practise for 12 months in 2012 and your conduct was designed to conceal this information in order to secure or retain employment. **[proved]**

17. On a DBS Declaration Form from Integral Medical Holdings dated 14th February 2018 you did not disclose that you had been suspended by the Nursing and Midwifery Council for 12 months in 2012. **[proved]**
18. Your conduct at Charge 17 above was dishonest in that you knew that the Nursing and Midwifery Council had suspended you from practise for 12 months in 2012 and your conduct was designed to conceal this information in order to secure or retain employment. **[proved]**
19. On a DBS Declaration Form from Integral Medical Holdings dated 14.02.18 you answered “No” to the question “Have you ever been dismissed by reason of misconduct from any employment, office or other position previously held by you?” **[admitted]**
20. Your conduct at Charge 19 above was dishonest in that you knew you had been dismissed from your employment at Tynemouth Medical Practice for misconduct on 11th December 2017 and your conduct was designed to conceal this fact. **[proved]**

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

## **Decision and reasons on application to amend the charge**

The panel heard an application made by Ms Mustard, on behalf of the Nursing and Midwifery Council (“NMC”), to amend the wording of charges 1, 7 and 9.

The proposed amendment to charge 1 was change the date from “July” to “August”. It was submitted that the proposed amendment did not go to the gravity of the charge, and would provide clarity and more accurately reflect the evidence.

### Original charge

1. On or around 18th July 2015 provided an application form to Your World Recruitment Agency in which you denied that you had ever been suspended by a professional body.

### Proposed amendment

1. On or around 18th ~~July~~ August 2015 provided an application form to Your World Recruitment Agency in which you denied that you had ever been suspended by a professional body.

The proposed amendment to charges 7 and 9 were to prefix the date with “on or around”. It was submitted by that the proposed amendment did not go to the gravity of the charge, and would provide clarity and more accurately reflect the evidence.

### Original charges

7. On 21st January 2018 you provided your Curriculum Vitae to the dual Practice Manager of Aldersbrook Medical Centre and Greenwich Peninsula Practice in which you stated that you held the following qualification:-

- i. 2007 London South Bank University BSc Nurse Practitioner.
9. On 21st January 2018 you provided your Curriculum Vitae to the dual Practice Manager of Aldersbrook Medical Centre and Greenwich Peninsula Practice in which you failed to disclose that you had been employed by Tynemouth Medical Practice between 1st August 2016 and 11th December 2017.

#### Proposed amendments

7. On or around 21st January 2018 you provided your Curriculum Vitae to the dual Practice Manager of Aldersbrook Medical Centre and Greenwich Peninsula Practice in which you stated that you held the following qualification:-
  - i. 2007 London South Bank University BSc Nurse Practitioner.
9. On or around 21st January 2018 you provided your Curriculum Vitae to the dual Practice Manager of Aldersbrook Medical Centre and Greenwich Peninsula Practice in which you failed to disclose that you had been employed by Tynemouth Medical Practice between 1st August 2016 and 11th December 2017.

Mr Meiland, on your behalf, indicated that the amendments were not opposed.

The panel accepted the advice of the legal assessor that Rule 28 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004, as amended (“the Rules”) states:

28.— (1) At any stage before making its findings of fact, in accordance with rule 24(5) or (11), the Investigating Committee (where the allegation relates to a fraudulent or incorrect entry in the register) or the Fitness to Practise Committee, may amend—



- (a) the charge set out in the notice of hearing; or
  - (b) the facts set out in the charge, on which the allegation is based,  
  
unless, having regard to the merits of the case and the fairness of the proceedings, the required amendment cannot be made without injustice.
- (2) Before making any amendment under paragraph (1), the Committee shall consider any representations from the parties on this issue.

The panel was of the view that the amendments, as applied for, were in the interests of justice. The panel noted that the amendments did not change the nature or gravity of the charges. It was therefore satisfied that there would be no prejudice to you and no injustice would be caused to either party by the proposed amendments being allowed. It was therefore appropriate to allow the amendments, as applied for, to ensure clarity and accuracy.

## **Decision and reasons on application pursuant to Rule 31**

The panel heard an application made by Ms Mustard under Rule 31 of the Rules to allow Dr 1 to give evidence via video link.

[PRIVATE]

Ms Mustard submitted that Dr 1's evidence is plainly relevant in this case. She submitted that it would be fair to hear Dr 1's evidence via video link as: you were informed of this application in advance of the hearing, there will be no objection from Mr Meiland, and no prejudice to you as the panel will be able to see Dr 1 and gauge his demeanour. Ms Mustard assured the panel that Dr 1 would be sent and have available to him all the necessary exhibits.

Mr Meiland did not oppose the application.

The panel heard and accepted the legal assessor's advice on the issues it should take into consideration in respect of this application. This included that Rule 31 provides that, so far as it is '*fair and relevant,*' a panel may accept evidence in a range of forms and circumstances, whether or not it is admissible in civil proceedings.

The panel gave the application in regard to Dr 1 serious consideration. The panel considered whether you would be disadvantaged by Dr 1 providing his testimony by way of video evidence. The panel considered that the application is not opposed, and that Dr 1 would have all the necessary documentation. The panel considered that it would still be able to see Dr 1 and assess his demeanour, however it also noted that demeanour is only one matter to be taken into consideration when assessing a witness's credibility. The panel considered that there are clear practical difficulties for Dr 1 in attending the hearing in person. In all the circumstances the panel decided that it was fair and relevant to accept Dr 1's evidence via video link.

## Decision and reasons on application pursuant to Rule 19

Ms Mustard, prior to making her application for special measures for Patient A, made a request that parts of the hearing of your case be held in private on the basis that proper exploration of case involves reference to Patient A's health. The application was made pursuant to Rule 19 of the Rules.

Mr Meiland did not oppose the application.

The legal assessor reminded the panel that while Rule 19 (1) provides, as a starting point, that hearings shall be conducted in public, Rule 19 (3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

Rule 19 (3) states:

19.

- (3) *Hearings other than those referred to in paragraph (2) above may be held, wholly or partly, in private if the Committee is satisfied—*
  - (a) *having given the parties, and any third party from whom the Committee considers it appropriate to hear, an opportunity to make representations; and*
  - (b) *having obtained the advice of the legal assessor, that this is justified (and outweighs any prejudice) by the interests of any party or of any third party (including a complainant, witness or patient) or by the public interest.*
  
- (4) *In this rule, "in private" means conducted in the presence of every party and any person representing a party, but otherwise excluding the public.*

Having heard that there will be reference to Patient A's health the panel determined to hold such parts of the hearing in private. The panel determined to go into private session in connection with Patient A's health as and when such issues are raised.

### **Decision and reasons on special measures application pursuant to Rule 23**

[PRIVATE]

### **Decision and reasons on application of no case to answer**

The panel considered an application from Mr Meiland that there is no case to answer in respect of charge 6. Mr Meiland further submitted that, if the panel is not with him as to facts, there is no case to answer on misconduct and impairment. This application was made under Rule 24 (7) and Rule 24 (8) of the Rules. These rules state:

24 (7) Except where all the facts have been admitted and found proved under paragraph (5), at the close of the Council's case, and –

(i) either upon the application of the registrant ...

the Committee may hear submissions from the parties as to whether sufficient evidence has been presented to find the facts proved and shall make a determination as to whether the registrant has a case to answer.

(8) Where an allegation is of a kind referred to in article 22(1)(a) of the Order, the Committee may decide,—

(i) either upon the application of the registrant, or

(ii) of its own volition,

to hear submissions from the parties as to whether sufficient evidence has been presented to support a finding of impairment, and shall make a determination

In relation to this application Mr Meiland primarily relied on the first limb of *Galbraith* and submitted that there is no evidence that you had a duty to remove the entirety of Patient A's Intra-Uterine Device (IUD) on 28 November 2017. He submitted that the panel has no evidence from a nurse, or medical professional, that in the specific circumstances of Patient's A presentation the only appropriate course of action was to remove the IUD in its entirety, and you failed to do so. In these circumstances, he submitted that this charge should not be allowed to remain before the panel.

Ms Mustard opposed the application. She submitted that Patient A's evidence was that she booked the appointment with you in order to get her IUD removed. Ms Mustard submitted that as the professional responsible for the appointment, you had a duty to carry out the task for which the appointment was booked.

Ms Mustard submitted that it was Patient A's evidence that you went further than simply examining her, you used the relative instruments, and this was painful for Patient A. Ms Mustard submitted that once you had started the procedure there was evidentially a duty to complete that procedure. Patient A told the panel that she was not told that the procedure could not be carried out. Ms Mustard referred the panel to Patient A's contemporaneous notes, specifically the entry dated 27 February 2018, where it is recorded that you "tried to remove the IUD in Nov". She invited the panel to find that there is sufficient evidence that you failed to remove the entirety of the IUD and therefore allow the charge to proceed.

The panel took account of the submissions made and heard and accepted the advice of the legal assessor which included reference to *R v Galbraith* (1981) 73 Cr App R 124, *Roylance v. GMC (No.2)* [2001] AC 311, and *Cheatle v GMC* [2009] EWHC 645 (Admin).

In reaching its decision, the panel made an initial assessment of all the evidence that had been presented to it at this stage. It had careful regard to Patient A's witness statement and oral evidence, and your contemporaneous notes on Patient A's medical record. The panel was solely considering whether sufficient evidence had been presented, such that it could find the facts proved and whether you had a case to answer.

The panel made a provisional assessment of Patient A's credibility, as the key witness for this charge.

The panel found that Patient A gave evidence consistent with her statement. However, she appeared to have difficulty remembering what happened and what was said, [PRIVATE].

The panel was of the view that, taking account of all the evidence before it, there was not a realistic prospect that it would find the facts of charge 6 proved.

The panel bore in mind that it is alleged that you failed to remove Patient A's IUD in its entirety, and accordingly, to find this charge proved, the NMC must establish that you had a duty to do so.

The panel considered the contemporaneous notes of Patient A's attendance at Tynemouth Medical Practice, and noted that it states that before she was examined the IUD appeared to be broken. The panel considered that it had no evidence before it as to what you should have done in these circumstances. The panel had heard no evidence before it from a medical professional as to what the appropriate course of action for a registered nurse in your role would have been. There is no evidence as to what you should have done, and whether the broken IUD should have been removed in its entirety.

The panel noted that there is some dispute as to what the appropriate course of action would have been if it was not possible to remove Patient A's IUD. However, the panel considered that the charge does not relate to any potential failings in the advice that you gave Patient A and any actions you should have taken thereafter.

According, the panel concluded that there was not a realistic prospect that it would find the facts of charge 6 proved.

## Background

The charges arose whilst you were employed as a Registered Nurse by Tynemouth Medical Practice (the Practice), Your World Recruitment Agency (the Agency), and Aldersbrook Medical Centre (Aldersbrook) between 2015 and 2018.

The three areas of alleged regulatory concern with your practice are as follows:

1. Dishonest conduct in relation to securing terms of employment at the Practice and/ or the Agency.
2. Providing substandard clinical care to a patient at the Practice.
3. Making false declarations about your educational, employment, and/ or fitness to practise history when seeking employment at the Agency and Aldersbrook (with associated dishonesty).

It is alleged that you withheld details of your previous NMC fitness to practise history from the Agency who recommended you for the role at the Practice. It is also alleged that in signing a false declaration whilst securing work through the Agency in relation to your previous fitness to practise history you displayed dishonest behaviour.

It is alleged that you altered the salary quoted on your job offer letter from the Practice, from £40,000 to £50,000, and used this to secure a higher salary. It is alleged that the falsification of a document to secure an increase in your salary from the Practice is prima facie dishonest.

The allegation relating to your clinical conduct is that whilst working at the Practice you failed to remove all of Patient A's contraceptive coil which caused pain and adverse symptoms.



It is also alleged that you failed to act with honesty and integrity in that, in relation to obtaining employment at Aldersbrook. It is alleged that you: submitted a C.V., made representations during interview, and completed pre-employment/ DBS forms, all of which were misleading and/ or contained false information, in that you:

1.1.1 claimed to have obtained a BSc Nurse Practitioner qualification which was false as the University had discontinued your place on the course;

1.1.2 withheld details of your recent employment at the Practice, including the fact that you had been dismissed;

1.1.3 withheld information about your previous NMC fitness to practise; namely that you had been suspended for 12 months in 2012.

1.1.4 You claimed to have a Diploma in Diabetes and Asthma when you did not.

### **Agreed Facts**

For clarity, Ms Mustard and Mr Meiland submitted the following agreed facts to the panel:

1. A Conduct and Competence Committee panel of the NMC concluded a substantive hearing in respect of you on 24 May 2012.
2. You were present and represented on 24 May 2012 when the panel handed down their decision on sanction.
3. The panel imposed a 12 month suspension order as a sanction at the conclusion of the proceedings on 24 May 2012.
4. There is nothing within the redacted sections of Ms 2's witness statement which pertains to offer letters or salary.

## **Decision on the findings on facts and reasons**

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 Ms Mustard and those made by Mr Meiland.

Ms Mustard invited the panel to find all charges proved and submitted that the NMC had discharged the burden of proof in relation to each of them. Ms Mustard set out the evidence in relation to each charge. Ms Mustard reminded the panel of the agreed facts.

Ms Mustard submitted that the charges involve multiple incidents of dishonesty, and submitted that if the panel find any of the charges proved, this can be relied on when considering the other charges.

Mr Meiland referred the panel to the case of *Ivey v Genting Casinos* in reference to dishonesty. He said that the panel, when fact finding, must ascertain the state of mind of the individual as to their knowledge or belief. He submitted that actual knowledge is not an objective standard, and not a question of what you should have known. Mr Meiland submitted that the issue for the panel to decide on is whether or not you acted in the way alleged, and if so, whether you did so deliberately.

Mr Meiland addressed each charge in turn, and submitted that there were evidential weaknesses in the NMC's case. Mr Meiland put forward your explanation in relation to each charge, and invited the panel to find all charges not proved.

The panel heard and accepted the advice of the legal assessor who referred the panel to *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67.

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 the

facts will be proved if the panel was satisfied that it was more likely than not that the incidents occurred as alleged.

The panel heard oral evidence from six witnesses called on behalf of the NMC:

Dr 1 – General Medical Practitioner Partner at the Practice;

Ms 2 – Interim Practice Manager at the Practice;

Ms 3 – Clinical Advisor at the Agency;

Ms 4 – Head of Nursing at Integral Medical Holdings;

Ms 5 – Dual Practice Manager at Greenwich Peninsula Practice Millennium Village; Health Centre, and Aldersbrook.

Patient A – Patient at the Practice

The written statement of Ms 6, Associate Professor and Course Leader for the BSc Nurse Practitioner course, at London South Bank University, was read into the record by Ms Mustard.

The panel also heard evidence from you under oath.

The panel found Dr 1 to be a credible and reliable witness. He tried to assist the panel as much as possible, however there were occasions where his evidence was limited in scope and not directly linked to the allegations. The panel noted that Dr 1 only spent a small proportion of his time on administrative matters. The panel considered that overall, Dr 1 was credible and reliable, particularly where he had been directly involved.

The panel found Ms 2 to be a credible and reliable witness. She was clear in response to questioning about how she gained access to the relevant files, and was consistent in stating the proper procedures that she followed. The panel considered that she tried to assist the panel as much as possible. Whilst she did state that she was not an IT expert, the panel found that her reliability waivered where her evidence centred on the

interpretation of IT systems. Overall, the panel considered that Ms 2 was balanced and consistent in her evidence.

The panel found Ms 3 to be a credible and reliable witness. Her evidence was consistent and straightforward. She tried to assist the panel wherever possible, although her evidence was limited in scope. She answered questions clearly and within the framework of what she could answer.

The panel found Ms 4 to be a credible and reliable witness. She was clear and consistent throughout her evidence and remained consistent on cross-examination. She tried to assist the panel as much as possible. When presented with conflicting evidence from other witnesses, she remained consistent and did not change her evidence.

The panel found Ms 5 to be a credible and reliable witness. She tried to assist the panel as much as possible. She was prepared to admit when she had made errors. Her evidence was consistent and she maintained consistency when questioned. She appeared to have a good recollection of events, and could answer questions even where matters were not referred to in her witness statement.

The panel found that you, as the registrant, knew the answers you wanted to give and that you were consistent in them. However, at times, you contradicted yourself, and sought to provide a variety of excuses which involved blaming others. The panel considered that some of your answers were implausible, especially when dealing with completing on-line forms, and the associated charges 15 - 20. Your answers to questions surrounding the forms contradicted your own evidence and in many cases contemporaneous documentary evidence. The panel found that you were neither reliable nor credible.

At the start of this hearing you admitted the following charges:

**Charge 7**

7. On 21st January 2018 you provided your Curriculum Vitae to the dual Practice Manager of Aldersbrook Medical Centre and Greenwich Peninsula Practice in which you stated that you held the following qualification:-
  - i. 2007 London South Bank University BSc Nurse Practitioner.

### **Charge 9**

9. On 21st January 2018 you provided your Curriculum Vitae to the dual Practice Manager of Aldersbrook Medical Centre and Greenwich Peninsula Practice in which you failed to disclose that you had been employed by Tynemouth Medical Practice between 1st August 2016 and 11th December 2017.

### **Charge 19**

19. On a DBS Declaration Form from Integral Medical Holdings dated 14.02.18 you answered “No” to the question “Have you ever been dismissed by reason of misconduct from any employment, office or other position previously held by you?”

These were therefore announced as proved.

The panel then went on to consider the remaining charges. The panel considered it beneficial and logical to consider the charges in a different order to the one listed. It made the following findings:

### **Charge 1**

1. On or around 18th July 2015 provided an application form to Your World Recruitment Agency in which you denied that you had ever been suspended by a professional body.

**This charge is found proved.**

In reaching this decision, the panel took into account all the evidence put before it. The panel considered that it is agreed between the parties that a Conduct and Competence Committee panel of the NMC concluded a substantive hearing in respect of you on 24 May 2012. You were present and represented on 24 May 2012 when the panel handed down their decision of a 12 month suspension order at the conclusion of proceedings on 24 May 2012. The panel considered that you were therefore aware of the suspension order at the time of completing the application form.

The panel had regard to the evidence of Ms 3. Ms 3 confirms that you provided the Agency with an application form which was signed and dated 18 August 2015. The fourth question under the heading "Declaration of Criminal Record" asks: "Have you even been suspended or are you currently under investigation by an NHS Trust, professional body or any other organisation". This was answered "no". The panel considered that the NMC is a professional body, and that your suspension would have been appropriately disclosed by answering "yes" to this question. The panel noted that Ms 3 was not present at the time you completed the form.

[PRIVATE] You stated that the question was completed by the recruitment consultant.

The panel considered your explanation of events. You told the panel that you went to the Agency office to complete the form, and did it by hand whilst in the office. You said that you were not sure where to declare your previous NMC suspension on the form. You told the panel that the Agency employee was aware of your suspension. You explained that they were rushing you and they asked you to sign the form and said they would fill in anything you had missed. You said that you did not answer question 4 and that this was completed by the Agency employee.

The panel noted that the Agency employee has not been called to give evidence.

The panel considered that the “Declaration of Criminal Record” is an important section of the form. The panel considered it to be highly unlikely that an employee from the Agency would complete this on behalf of a registered nurse. The panel bore in mind that you have confirmed that it is your handwriting on the form throughout and you have signed it at the bottom. The panel considered that you appear to have answered the question 5, directly below question 4, in relation to DBS check correctly by colouring the circle “yes”. The panel concluded that on the balance of probabilities it was more likely than not that you completed all of the form.

The panel noted a pattern of your failure to disclose your previous NMC suspension order, and that you have provided different explanations on each occasion.

Accordingly, the panel found this charge proved.

## **Charge 2**

2. Your conduct at Charge 1 above was dishonest in that, when you signed the said form, you knew you had previously been suspended from practice by the Nursing and Midwifery Council and your conduct was designed to conceal this fact.

**This charge is found proved.**

In reaching this decision, the panel took into account all the documentary evidence put before it.

The panel, at charge 1, found that you completed the application form for the Agency knowing that you had been suspended by the NMC for 12 months in 2012. It noted that this is an agreed fact. The panel considered that you were completing the form in order to obtain work.

The panel considered your explanation as set out in charge 1.

The panel considered that a reasonable nurse would know the importance of disclosing a previous suspension order from the NMC. The panel found that you knew you had been suspended and you sought to conceal this in order to procure employment, which is an objectively dishonest act. The panel rejected your explanation that you did not complete the form yourself. It further considered that you have a responsibility to ensure the accuracy of any document you have signed.

Accordingly, the panel found this charge proved.

### **Charge 13**

13. At an employment interview on 2nd February 2018 you did not disclose that you had previously been suspended from practise by the Nursing and Midwifery Council.

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

The panel considered that there were two interviewers at your interview on 2 February 2018, Ms 4 and Ms 5. The panel bore in mind that it has found both Ms 4 and Ms 5 to be credible and reliable witnesses and it considered that any minor differences in their accounts was likely due to the passage of time.

The panel had regard to the contemporaneous interview notes taken on 2 February 2018 by Ms 5. Question 12 states "*Have you been removed from the register, or have conditions been made on your registration by a fitness to practise committee or the licensing regulatory body in the UK or in any other country*". The panel accepted Ms 5's evidence that this is a standard interview question that is always asked, and that it was



asked at your interview on 2 February 2019. Your response is recorded as “No” with a note that you “skimmed over an incident that happened, never came to anything ???”. The panel considered that this constituted a denial of the 12 month suspension order imposed by the Fitness to Practise Committee in 2012. Ms 4 and Ms 5 both confirmed that you did not disclose this to them in interview and the contemporaneous notes support that position.

The panel noted that the CV you provided to Aldersbrook, which was used in the interview did not address your period of suspension.

The panel concluded that, on the balance of probabilities, you did not disclose the fact of your suspension order in 2012 at the interview on 2 February 2018.

Accordingly, the panel found this charge proved.

#### **Charge 14**

14. Your conduct at Charge 13 above was dishonest in that you knew that you had previously been suspended from practise by the Nursing and Midwifery Council and you sought to conceal this information in order to secure employment.

**This charge is found proved.**

The panel considered that it is agreed between the parties that a Conduct and Competence Committee panel of the NMC concluded a substantive hearing in respect of you on 24 May 2012. You were present and represented on 24 May 2012 when the panel handed down their decision of a 12 month suspension order at the conclusion of proceedings on 24 May 2012. The panel considered that you were therefore aware of the suspension order at the time of the interview on 2 February 2018.

The panel has found, at charge 13, that you were asked by Ms 4 and Ms 5 whether you have been subject to regulatory proceedings which resulted in a restriction on your practice. The panel found that you did not disclose the fact of your suspension, and therefore intentionally concealed it in order to secure employment. The panel considered that this was inherently dishonest, and that any reasonable nurse would know to disclose their previous regulatory history to a prospective employer.

The panel had regard to your explanation that you attempted to explain that you had been the subject of proceedings but that the interviewers quickly moved on to discuss another nurse. This was disputed by Ms 4 and Ms 5. The panel accepted Ms 5's evidence that you had skimmed over something about NMC proceedings but did not state that you had an order imposed against you. This is supported by Ms 5's contemporaneous notes. The panel considered that your explanation was implausible.

Accordingly, on the balance of probabilities, the panel found this charge proved.

### **Charge 15**

15. In a "Professional Body Registration Form" from Integral Medical Holdings dated 14th February 2018 you did not disclose that you had previously been suspended from practise by the Nursing and Midwifery Council for 12 months in 2012.

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

The panel had regard to the "Professional Body Registration Form" from Integral Medical Holdings dated 14 February 2018. In response to the question "Have you ever been involved in any hearings or investigations with the above body" you answered "yes". When asked to provide further details you stated "*2007 I had a hearing which I was able to continue my practice. I had a prolonged suspension from nursing due to a*

*house fire [PRIVATE]*. The panel considered that this explanation was misleading and did not disclose your suspension order in 2012. In your oral evidence you confirmed that the house fire [PRIVATE] were not relevant to the NMC proceedings, and in fact occurred after the proceedings.

The panel considered your evidence that you completed the form at home, quite late in the evening, around 10.30. In your oral evidence you denied that you provided the answers that are recorded on the form, and you accepted that these were not an accurate record of events. However you were not able to provide an explanation as to how the answers came to appear on the form. The panel noted that the answers contained personal information only known to you.

In all the circumstances, the panel accepted that you completed the form in the way that it is set out before the panel. In doing so, you did not disclose that you had previously been suspended from practice by the Nursing and Midwifery Council for 12 months in 2012.

Accordingly, the panel found this charge proved.

### **Charge 16**

16. Your conduct at Charge 15 above was dishonest in that you knew that the Nursing and Midwifery Council had suspended you from practise for 12 months in 2012 and your conduct was designed to conceal this information in order to secure or retain employment

**This charge is found proved.**

The panel considered that in response to a direct question on a form you completed in order to secure employment, which you signed by way of electronic signature, you provided an inaccurate response. The “Professional Body Registration Form” from

Integral Medical Holdings dated 14 February 2018 relates to important information necessary for gaining employment. The panel did not accept your explanation that you did not write the words stated there, and considered it implausible. The panel considered that in providing the inaccurate and misleading response you sought to conceal the timing and length of your suspension from the NMC. The panel found that your actions were objectively dishonest, and that any reasonable nurse would know the importance of clarity and full disclosure on a form such as this.

Accordingly, the panel found this charge proved.

### **Charge 17**

17. On a DBS Declaration Form from Integral Medical Holdings dated 14th February 2018 you did not disclose that you had been suspended by the Nursing and Midwifery Council for 12 months in 2012.

**This charge is found proved.**

The panel had regard to the “DBS Declaration” from Integral Medical Holdings dated 14 February 2018. In response to the question “Have you ever been disqualified from the practice of a profession or required to practice subject to specified limitations following fitness to practice proceedings by a regulatory or licensing body in the United Kingdom or in any other country”, you correctly answered “yes”. In the further details section at the bottom of the form you stated “2012 for work in 2007 at a GP practice had a short time subject to practice which lasted 6 months”.

The panel considered that your 12 month suspension order was known to you. In completing the form you did not set out the fact of the suspension order, or that it was for 12 months.

The panel considered your evidence that you completed the form at home, quite late in the evening, around 10.30. In your oral evidence you denied that you provided the answers that are recorded on the form, and you accepted that these are not an accurate record of events. However you were not able to provide an explanation as to how the answer came to appear on the form.

The panel considered that this was a simple form which required a simple response. The form was completed by you at home under your own time constraints. Your response suggests that you were under some form of restriction for a period of six months, which was not the case. The form was signed by you, by way of electronic signature.

In all the circumstances, the panel found this charge proved.

### **Charge 18**

18. Your conduct at Charge 17 above was dishonest in that you knew that the Nursing and Midwifery Council had suspended you from practise for 12 months in 2012 and your conduct was designed to conceal this information in order to secure or retain employment.

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

The panel considered that in response to a direct question on a form you completed in order to secure employment, which you signed by way of electronic signature, you provided an inaccurate response. The “Professional Body Registration Form” from Integral Medical Holdings dated 14 February 2018 relates to important information necessary for gaining employment. The panel did not accept your explanation that you did not write the words stated there, and considered it implausible. The panel considered that providing your narrative of events was deliberately misleading in an

attempt to reduce the severity of the order imposed by the NMC. The panel found that your actions were objectively dishonest, and that any reasonable nurse would know the importance of clarity and full disclosure on a form such as this.

### **Charge 10**

9. On 21st January 2018 you provided your Curriculum Vitae to the dual Practice Manager of Aldersbrook Medical Centre and Greenwich Peninsula Practice in which you failed to disclose that you had been employed by Tynemouth Medical Practice between 1st August 2016 and 11th December 2017. **[admitted]**
  
10. Your conduct at paragraph 9 above was dishonest in that you had been employed by Tynemouth Medical Practice between 1st August 2016 and 11th December 2017 and by your conduct you sought to conceal the fact you had been dismissed from that employment.

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

The panel had regard to the CV it is alleged you provided to the Practice Manager of Aldersbrook. The panel considered the evidence of Dr 1 that you were employed at the Practice from 1 August 2016 until 11 December 2017, and noted that this is not disputed by you. Dr 1 told the panel that you were dismissed from the Practice for suspected falsification of your offer letter.

The panel noted that the CV provided to Aldersbrook does cover the time period for which you were at the Practice but details of this employment are not provided. The panel considered your explanation that the CV, before the panel, was sent to Aldersbrook in error and you later submitted an alternative CV which did include details of your employment at the Practice. This alternative CV was not provided to the panel.

The panel noted that on your CV you have included a reason for leaving each employment, but noted that your dismissal from the Practice was not stated anywhere.

The panel had regard to the contemporaneous interview notes taken on 2 February 2018 by Ms 5. The panel considered that the notes appear to only refer to one CV. It had regard to the interview Question 1 which states “Tell us about what you have been doing over the last three years” to which your answer was “per CV”. Question 2 asked “What has prompted you to seek an alternative position” to which your answer was “Stability”.

The panel considered the evidence of Ms 4 and Ms 5 that, in your interview, it was very difficult to “pin down” details of your previous permanent employer. The panel noted its finding at charge 17 that you did not declare the fact of your dismissal on the DBS form.

The panel found that your explanation of the provision of a second CV that disclosed your dismissal from the Practice was implausible. The evidence from Ms 4 and Ms 5 was that they did not know of your dismissal by the end of your interview, and no reference to a second CV is contained in the minutes of the meeting of 12 March 2017. The panel found that you deliberately concealed the fact that you had been dismissed from the Practice in order to secure employment at Aldersbrook. The panel consider that this was an objectively dishonesty act.

Accordingly, the panel found this charged proved.

### **Charge 19**

19. On a DBS Declaration Form from Integral Medical Holdings dated 14.02.18 you answered “No” to the question “Have you ever been dismissed by reason of misconduct from any employment, office or other position previously held by you?” **[admitted]**.

## **Charge 20**

20. Your conduct at Charge 19 above was dishonest in that you knew you had been dismissed from your employment at Tynemouth Medical Practice for misconduct on 11th December 2017 and your conduct was designed to conceal this fact.

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

The panel considered that in response to a direct question on the DBS declaration form you completed in order to secure employment, which you signed by way of electronic signature, you provided an incorrect response. The “DBS Declaration” from Integral Medical Holdings dated 14 February 2018 relates to important information necessary for gaining employment. The panel did not accept your explanation that this was a mistake. The panel considered that you did not provide details of your dismissal from the Practice, on your CV, or in interview. The panel found that you deliberately answered “no” to conceal the fact that you had been dismissed from the Practice in order to secure employment at Aldersbrook. The panel consider that this was an objectively dishonesty act.

Accordingly, the panel found this charge proved.

## **Charge 8**

7. On 21st January 2018 you provided your Curriculum Vitae to the dual Practice Manager of Aldersbrook Medical Centre and Greenwich Peninsula Practice in which you stated that you held the following qualification:-



- i. 2007 London South Bank University BSc Nurse Practitioner  
**[admitted]**

8. Your conduct at Charge 7 above was dishonest in that you knew you did not hold such a qualification and your conduct was designed to secure employment.

**This charge is found proved.**

The panel had regard to your CV which states that you held the following qualification “2007 London South Bank University BSc Nurse Practitioner”.

The panel considered your explanation that you provided a second CV to Aldersbrook which did not include reference to “2007 London South Bank University BSc Nurse Practitioner”.

The panel had regard to its reasons stated at charge 10, where it did not accept your explanation that you provided a second CV to Aldersbrook, and endorsed that reasoning here.

The panel had regard to the written statement of Ms 6, where she states that you failed two modules and were withdrawn from the BSc Nurse Practitioner course. This is accepted by you.

In your oral evidence you told the panel that you knew that you should clarify on your CV where results for a course were pending by stating as such next to the listed qualification. The panel noted that you had adopted that approach for the 2018 course at Kings College London for Prescribing for Nurses and Midwives, where on your CV it was noted next to that course “awaiting results”. The panel considered that stating you hold a qualification on your CV that you have not obtained is dishonest. The panel considered your explanation that your daughter put this CV onto your desktop in an

attempt to be helpful, and you submitted the CV in error. The panel did not accept this explanation and found this to be an attempt to blame others.

Accordingly, the panel found this charge proved.

### **Charge 11**

11. At an employment interview on 2nd February 2018 you stated that:-

- a. You had been awarded an advanced nursing qualification; and/or
- b. You had been awarded a Diploma in Asthma; and/or
- c. You had been awarded a Diploma in Diabetes.

**This charge is found proved.**

The panel had regard to the evidence of Ms 4 and Ms 5 that you confirmed at interview on 2 February 2017 that you held the advanced nursing qualification and diplomas in Asthma and Diabetes.

The panel had regard to the contemporaneous interview notes taken by Ms 5. The panel considered that these clearly state that you held a “Diploma in diabetes and respiratory”.

The panel considered Ms 4 and Ms 5’s explanation that based on these qualifications they considered that you were more suited to the Advanced Nurse Practitioner role.

In all the circumstances the panel found this charge proved on the basis of Ms 4 and Ms 5’s evidence, the contemporaneous interview notes of 2 February 2017, and the minutes of the March meeting.

## **Charge 12**

12. Your conduct at 11(i) and/or 11(ii) and/or 11(iii) above was dishonest in that you knew you had not been awarded:-

- a. An advanced nursing qualification; and/or
- b. A Diploma in Asthma; and/or
- c. A Diploma in Diabetes

and your conduct was designed to secure employment.

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

The panel considered that you knew you did not hold the above listed qualifications when you were interviewed on 2 February 2017. You accept that you did not have these qualifications.

The panel considered that stating that you hold qualifications you do not in interview is inherently dishonest. Having found charge 11 proved, the panel did not accept your explanation that you did not say that you held these qualifications in interview.

Accordingly, the panel found this charge proved.

## **Charge 3**

3. Between 21st July 2016 and March 2017 altered a letter containing an offer of employment to you from Tynemouth Medical Practice dated 21st July 2016 in that you amended the salary stated therein from £40,000 to £50,000.

### **This charge is found NOT proved.**

The panel had regard to the evidence of Dr 1 that the partners at the Practice were always under the impression that you had been offered a salary of £40,000 per annum (p.a.), and that you raised an issue that you thought you were offered £50,000 but you were not receiving this.

Dr 1 told the panel that Ms 7, the Practice Manager at the time, had responsibility for drafting and sending out offer letters to new members of staff.

The panel noted the email from Ms 7 to the Agency dated 22 July 2016 that you were to receive a salary of £40,000 p.a. for your role as Practice Nurse. The panel noted that it has not heard any evidence from Ms 7, the author of your offer letter.

The panel had regard to your payslips which cover the period from the start of your employment at the Practice, and noted that you were being paid over £40,000 p.a. from the beginning of your employment at the Practice. The panel noted that when you raised a dispute over your pay a salary of £50,000 p.a. was granted.

The panel had regard to the evidence of Ms 2, the Interim Practice Manager, who was tasked with investigating matters relating to your offer of employment and your associated salary. The panel had regard to Ms 2's evidence as to alleged amendments made to the offer letter by you, by reference to the IT systems and her interpretation of multiple copies of the offer letter being saved on your "C Drive" (which was personal to you).

The panel considered that Ms 2, tried her best to assist the panel, however by her own admission, was not an IT expert. The panel also considered that Dr 1, was not the author of the offer letter, and only spent a minimal amount of his time doing administrative duties.

The panel considered that in the absence of expert evidence on the IT system it cannot rely on Ms 2 evidence relating her evidence on the computer systems.

In these circumstances, namely without any expert evidence, and without any evidence from Ms 7 the author of the offer letter, the panel found that it was not possible to determine who amended the offer letter from £40,000 p.a. to £50,000 p.a.

Accordingly, the panel found this charge not proved.

#### **Charge 4**

4. In or around March 2017 you produced a hard copy of the altered letter referred to in Charge 3 above to one or more of the partners of Tynemouth Medical Practice.

**This charge is found NOT proved.**

Having found charge 3 not proved, the panel noted that this charge could not be found proved.

#### **Charge 5**

5. Your conduct at Charges 3 and/or 4 above was dishonest in that:
  - a. You knew that you had been offered a salary of £40,000 in the original letter dated 21st July 2016; and
  - b. You intended to deceive the partner(s) into believing that the letter which you had altered was the original letter that you had received;

and your conduct was designed to secure a higher salary than the one agreed in July 2016.

**This charge is found NOT proved.**

Having found charge 3 not proved, the panel noted that this charge could not be found proved.

## Submission on misconduct and impairment

Having announced its finding on all the facts, 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 suitability to remain on the register unrestricted.

Ms Mustard provided the panel with the following agreed facts:

1. At the substantive hearing which concluded in May 2012 the panel were considering a number of charges, including the following:

On or around 7 June 2007, submitted a Curriculum Vitae to London South Bank University, as part of your Portfolio for the BSc (Hons) Nurse Practitioner (Primary Health Care) programme, in which you stated that you had a "Diploma in Asthma",

2. Ms. Nicholls admitted the above charge.
3. The panel's reasoning in 2012 included the following paragraph:

*Ms Nicholls misrepresented her qualifications to gain access to a course which she was not entitled and therefore had the consequences of placing patients at risk. This dishonest behaviour and was in breach of these provisions in the 2002 Code.*

In her submissions Ms Mustard invited the panel to take the view that your actions amounted to a breach of *The Code: Professional standards of practice and behaviour for nurses and midwives (2015)* (the Code). She then directed the panel to the following specific paragraphs of the Code: 13, 13.5, 20, 20.1, 20.2, 21, 21.3, and identified where, in the NMC's view, your actions amounted to misconduct.

Ms Mustard referred the panel to the case of *Roylance v GMC (No. 2)* [2000] 1 AC 311 which defines misconduct as a 'word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.' Ms Mustard submitted that your misrepresentations of your qualifications, and the concealment of your fitness to practise history were sufficiently serious failings to result in a finding of misconduct.

She then 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. Ms Mustard referred the panel to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin). Ms Mustard submitted that you are currently impaired on both public protection and public interest grounds. Ms Mustard submitted that by holding yourself out as more qualified than you were you put patients at an unwarranted risk of harm. She further submitted that your persistent dishonesty in and of itself brings the nursing profession into disrepute.

Mr Meiland provided the panel with a bundle of training certificates and positive testimonials on your behalf. Mr Meiland submitted that you accepted that your actions found proved amount to misconduct, and that your fitness to practise is currently impaired on public interest grounds. Mr Meiland clarified that you do not accept that your actions put patients at an unwarranted risk of harm, or that your fitness to practise is currently impaired on public protection grounds.

The panel has accepted the advice of the legal assessor which included reference to: *Roylance v General Medical Council (No 2)* [2000] 1 A.C. 311, *Cheatle v GMC* [2009] EWHC 645 (Admin), *Royal College of Veterinary Surgeons v Samuel* [2014] UKPC 13, *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin), and *Cohen v General Medical Council* [2008] EWHC 581.



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

## **Decision on misconduct**

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

The panel, in reaching its decision, had regard to the public interest and accepted that there was no burden or standard of proof at this stage and exercised its own professional judgement.

The panel was of the view that your actions did fall significantly short of the standards expected of a registered nurse, and that your actions amounted to a breach of the Code. Specifically:

### **13 Recognise and work within the limits of your competence**

Preamble: You make sure that patient and public safety is protected. You work within the limits of your competence, exercising your professional 'duty of candour' and raising concerns immediately whenever you come across situations that put patients or public safety at risk. You take necessary action to deal with any concerns where appropriate.

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

Preamble: You uphold the reputation of your profession at all times. You should display a personal commitment to the standards of practice and behaviour set out in the Code. You should be a model of integrity and leadership for others to aspire to. This should lead to trust and confidence in the profession from patients, people receiving care, other healthcare professionals and the public.

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

21.3 act with honesty and integrity in any financial dealings you have with everyone you have a professional relationship with, including people in your care

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that your actions in dishonestly misrepresenting your qualifications and concealing your fitness to practice history would be considered deplorable by fellow practitioners.

The panel considered that your conduct, in the charges found proved, amount to a pattern of repeated and deliberate dishonesty. The panel noted that your misrepresentations and concealments occurred in 2015 and 2018 and were made to different agencies and an employer. The panel considered that your actions had the potential to put patients at an unwarranted risk of harm, as you held yourself out as being more qualified than you are. This could have led to you being entrusted to carry out care you are not trained to provide, which would put patients at a risk of harm. Furthermore concealment of your regulatory history undermines the regulatory process.

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

## **Decision on impairment**

The panel next went on to decide if as a result of this misconduct your fitness to practise is currently impaired.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional and to maintain professional boundaries. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession. In this regard the panel considered the judgement of Mrs Justice Cox in the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin)* in reaching its decision, in paragraph 74 she said:

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

Mrs Justice Cox went on to say in Paragraph 76:

“I would also add the following observations in this case...as to the helpful and comprehensive approach to determining this issue formulated by Dame Janet Smith in her Fifth Report from Shipman, referred to above. At paragraph 25.67 she identified the following as an appropriate test for panels considering impairment of a doctor’s fitness to practise, but in my

view the test would be equally applicable to other practitioners governed by different regulatory schemes.

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

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

The panel found that all four limbs of *Grant* were engaged in this case.

Regarding insight, the panel considered that you have not accepted that your actions were dishonest. There is no evidence of reflection or remorse. Accordingly, the panel found that you have no insight into your misconduct.

The panel had regard to your references. It noted that you have not been working as a registered nurse, and the two current references are not from nursing employers.

In its consideration of whether you have remedied your practice the panel bore in mind that dishonesty is difficult to remediate. The panel considered that it has no evidence of

insight. The panel had regard to the training certificates provided. It noted that many of these are historical and out of date. The panel considered that the provision of training certificates in this case were of less assistance given the nature of the misconduct than they would be in cases involving clinical failures.

The panel is of the view that there is a risk of repetition as you have not remediated your misconduct or shown insight or remorse. The panel considered that you had a sanction imposed by the Conduct and Competence Committee in 2012 for dishonesty in 2007. The panel considered that your current dishonesty occurred in 2015 and 2018. The panel considered that there is a high risk of repetition which is increased given that this is not an isolated incident and in light of your previous regulatory history.

The panel considered that any registered nurse misrepresenting their qualifications places the public in danger as they are capable of being appointed to and acting in positions that they are not qualified to be in.

In your CV and in the interview at Aldersbrook you stated that you had qualifications which you did not have. As a result of that Ms 4 and Ms 5 considered that you were more suitable for an Advanced Nurse Practitioner role, which you were neither qualified nor experienced enough for. Had you obtained the role you would have been working with a high level of autonomy. This could have exposed patients to an unwarranted risk of harm.

The panel considered that in concealing your fitness to practice history you prevented employers from making an informed decision. The panel accepted Ms 2 evidence that your concealment would have put patients at risk of harm. It noted that the Agency and the employer would not have the opportunity to put the necessary risk assessments and safeguards in place.

The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health, safety and wellbeing of the public and patients, and to uphold and protect the wider public interest, which includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions. The panel considered that honesty is a fundamental tenet of the nursing profession, and your repeated dishonesty breached that fundamental tenet. Your actions had the potential to undermine the public's trust and confidence in the profession, and jeopardise its reputation of integrity. The panel also determined that by relying on qualifications you did not have you disadvantaged other registered nurses who might have applied for such roles who had been truthful in respect of their qualifications.

The panel determined that, in this case, a finding of impairment on public interest grounds is also required.

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

## **Submissions and determination on sanction**

In her submissions on sanction, Ms Mustard invited the panel to impose a striking-off order. Ms Mustard outlined what the NMC considered to be the aggravating and mitigating features of this case.

Ms Mustard submitted that any order other than a striking-off order falls short of protection of the public and upholding the public interest in this case. Ms Mustard submitted that this was not a single incident of misconduct, but a sustained, longstanding series of repeated dishonesty. She submitted that your dishonesty directly relates to your nursing career and had the potential to put patients at an unwarranted risk of harm.

Ms Mustard submitted that the panel were entitled to consider your previous regulatory history, and it was of note that you had a suspension order imposed by the Conduct and Competence Committee in 2012 for dishonesty (among other matters). Ms Mustard submitted that the only sanction that would suitably maintain professional standards and satisfy the public interest would be to remove your name from the register.

Mr Meiland submitted that a suspension order is the appropriate and proportionate sanction in this case. Mr Meiland invited the panel to consider the mitigating factors that there was no actual patient harm [PRIVATE].

Mr Meiland invited the panel to consider whether the staff at Aldersbrook acted on your misrepresentations, and submitted that a key consideration is whether you started the Advanced Nurse Practitioner (ANP) role at Aldersbrook in March 2018. He invited the panel to make a finding on this as it impacts on the seriousness of the dishonesty.

Mr Meiland submitted that you have provided various professional references, and that the professional references from April 2018 are highly relevant as this was the last time you were able to practise as a registered nurse. Mr Meiland submitted that the



references describe you as a competent and safe nurse that is fit to practise without restriction.

Mr Meiland outlined the significant financial hardship an order would have on you and your family, and the hardship already arising out of the current interim order. He submitted that a suspension order would afford you the opportunity to reflect on the incidents prior to any future review hearing.

In reaching this decision, the panel had regard to all the evidence that has been adduced in this case. The panel accepted the advice of the legal assessor. The panel bore 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 Sanctions Guidance (SG) published by the NMC, including document SAN-2 on considering sanctions for serious cases, particularly the section involving dishonesty. It recognised that the decision on sanction is a matter for the panel, exercising its own independent judgement

After very careful consideration the panel 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.

Before making its determination on sanction, the panel had regard to the aggravating and mitigating features in this case.

The panel considered the aggravating features to be:

- Your misrepresentation of nursing qualifications which had the potential to place patients at an unwarranted risk of harm;
- Your misrepresentation as to your previous suspension prevented employers from putting proper risk assessments and safeguards in place;
- Your misconduct was premeditated in providing and completing false paperwork for applying for positions, it was systematic in that the approach was consistent,

and it was longstanding in that it took place in 2015, and for a number of weeks in 2018;

- The misconduct was not an isolated incident, the panel has found 8 charges of dishonesty proved;
- You have a previous disciplinary finding from the NMC which also related to dishonesty;
- Your dishonesty related to obtaining remunerated positions, and therefore had the potential for personal financial gain;
- The repeated nature of your dishonesty suggests deep-seated attitudinal concerns;
- You have displayed a lack of insight into the misconduct, and there is no evidence of reflection or remorse.

The panel has been asked to set out its finding in relation to whether you were appointed and worked as an ANP at Aldersbrook in order to determine the level of risk to patients. The panel noted Mr Meiland's submission that if you did not commence work as an ANP there was no direct risk of harm to patients (a mitigating factor).

The panel's finding is that you were employed by Aldersbrook as an ANP. In reaching this decision the panel had regard to all the evidence including the minutes of the disciplinary hearing on 12 March 2018. This document lists you as present and your job title as "Advanced Nurse Practitioner". On the same page the minutes discuss that one possible outcome would be "change of employment position with a new contract and a salary fit to position qualified for". The panel further noted that within the notes it states Ms 5 went on to explain "that [you] had on her CV and confirmed to us that she was an Advanced Nurse Practitioner".

The panel considered that you commenced employment with Aldersbrook as an ANP on 2 March 2018, and that you were dismissed on 12 March 2018. The panel considered that it was not clear how many days you were providing services as an ANP. The panel noted that you were required to undertake an induction period, and that you

were already working at Aldersbrook as a locum Practice Nurse. The panel could therefore not determine the level of direct contact you had with patients as an ANP. Accordingly, the panel determined that it could not find that there was a direct risk of harm to patients (an aggravating factor), but also could not say that there was no risk of harm (a mitigating factor).

The panel considered the mitigating features to be:

- You have provided reasonably recent positive references some of which are from those in the medical profession, however these are not current and are undermined by the charges found proved.
- The significant financial hardship an order would have on you and your family, and the hardship already arising out of the current interim order.
- You have never had any findings in respect of your clinical competence, and appear to be an otherwise competent nurse.

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

Next, in considering whether a caution order would be appropriate in the circumstances, the panel took into account the SG, which 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 Fitness to Practise Committee 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 protect the public, nor be in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel was mindful that any conditions imposed must be proportionate, measurable and workable. The panel noted that there are no clinical issues that arise in this case, your dishonesty appears attitudinal in nature which is not something that can be addressed through retraining. Further, the panel considered that the placing of conditions on your nursing registration would not adequately address the seriousness of this case, protect the public, nor uphold the wider public interest. The panel considered that your misconduct relates, in part, to a failure to disclose your NMC suspension order and that it considers there is high risk of repetition. Accordingly, the panel determined that a conditions of practice order would not be the appropriate or proportionate sanction.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG indicates key considerations in relation to suspension:

This order suspends the nurse or midwife's registration for a period of up to one year and may be appropriate in cases where the misconduct isn't fundamentally incompatible with the nurse or midwife continuing to be a registered professional, and our overarching objective may be satisfied by a less severe outcome than permanent removal from the register.

**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 and midwives, or professional standards?

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel took into account that your

dishonest misrepresentation and concealment was directly connected to your role as a registered nurse. The panel had regard to the SG, in particular SAN-2 (serious cases) and considered the seriousness of your dishonesty. The panel considered that, as noted in the aggravating factors, your dishonest conduct was a longstanding, systematic and premeditated deception and was therefore at the more serious end of the spectrum. The panel considered that the seriousness of this requires, as a minimum, temporary removal from the register.

The panel bore in mind that you received a previous suspension for dishonesty and you do not appear to have learnt from it, as you appear before your regulator again. The panel noted the previous suspension would have ended towards the middle of 2013 and charges 1 and 2, which it had found proved, took place in August 2015 just over two years after the end of the previous order. The panel considered that your misconduct relates to a failure to disclose the fact of your previous NMC suspension order. It noted that it has found there to be a high risk of repetition and public protection concerns. Balancing all of these factors, the panel has determined that a suspension order would not be an appropriate or proportionate sanction.

The panel therefore went on to consider the appropriateness of a striking-off order and took into account the following sections of the SG:

This sanction is likely to be appropriate when what the nurse or midwife has done is fundamentally incompatible with being a registered professional. Before imposing this sanction, key considerations the panel will take into account include:

- 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 considered that your repeated dishonest conduct, in 2007, 2015 and 2018 taken together is fundamentally incompatible with being a registered professional. The panel considered that two years following the end of your suspension order in 2013 the regulatory concerns with your practice have been repeated. It considered that the cumulative regulatory concerns about you raised fundamental questions about your professionalism, and your dishonest conduct is indicative of deep-seated attitudinal concerns. The panel noted that you made limited admissions, none of which were to dishonesty, and have shown no remorse or insight. The panel considered that in these circumstances, anything less than a striking-off order would undermine public confidence in the profession and in the NMC as its regulatory body.

The panel had regard to the principle of proportionality. It considered the financial hardship such an order would inevitably cause you and your family and the public interest in enabling an otherwise competent nurse to continue their practice. The panel considered that trust and confidence in the profession and the NMC outweighs the fortunes of any individual member of the profession. In these circumstances, the panel is not satisfied that a period of suspension, even for the maximum period of 12 months, would protect the public, satisfy the public interest or uphold public trust and confidence in the profession or the NMC.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. It concluded that, given the seriousness of the repeated dishonesty and the associated risk to the public, nothing short of this would be sufficient to protect the public and uphold public confidence in the profession.

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

Accordingly, the panel decided to make a striking-off order.

## **Determination on interim order**

The panel considered the submission made by Ms Mustard that an interim order should be made on the grounds that it is necessary for the protection of the public and is otherwise in the public interest.

The panel considered that an interim suspension order is not opposed by Mr Meiland.

The panel accepted the advice of the legal assessor.

The panel was satisfied that an interim suspension 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. To do otherwise would be incompatible with its earlier findings.

The period of this order is for 18 months to allow for the possibility of an appeal to be made and determined. The panel noted that appeals can take considerable time.

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

That concludes this determination.