

**Nursing and Midwifery Council**  
**Fitness to Practise Committee**  
**Substantive Hearing**  
**16-18 September 2019**

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

<b>Name of registrant:</b>	Linda Margaret Weeden
<b>NMC PIN:</b>	75H0295E
<b>Part(s) of the register:</b>	Registered Nurse – Sub part 1 – Adult Nursing (23 August 1978)
<b>Area of Registered Address:</b>	England
<b>Type of Case:</b>	Misconduct
<b>Panel Members:</b>	Paul Powici (Chair, lay member) Pauleen Pratt (Registrant member) Belinda Poole (Lay member)
<b>Legal Assessor:</b>	Jeremy Barnett
<b>Panel Secretary:</b>	Amira Ahmed
<b>Ms Weeden:</b>	Not present and not represented
<b>Nursing and Midwifery Council:</b>	Represented by David Claydon, Case Presenter
<b>Facts proved:</b>	1) (b) and 2
<b>Facts proved by admission:</b>	1) (a)
<b>Facts not proved:</b>	None
<b>Fitness to practise:</b>	Impaired
<b>Sanction:</b>	Striking off order
<b>Interim Order:</b>	Interim suspension order for 18 months

**Details of charge:**

That you, a registered nurse employed by North & East Hertfordshire NHS Trust ('The Trust'):

1) On 20 September 2017:

(a) Administered the following drugs to patient A without having had his medication checked and signed for by a colleague:

- i) Metroclopramide
- ii) Erythromycin
- iii) Pabrinex
- iv) Omeprazole
- v) Co-Amoxiclan
- vi) Paracetamol
- vii) Losartan
- viii) Simvastatin
- ix) Salbutamol
- x) Atrovent

b) That you entered Colleague 1's initials as the counter signatory for your entries on patient A's drug chart.

2) That your conduct respect of 1) b) above was dishonest in that you intended to conceal that you had administered medication without a second checker and / or intended to mislead anyone reading the drug chart that Colleague 1 had acted as a second checker for the medication you administered.

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

## **Decision on Service of Notice of Hearing**

The panel was informed at the start of this hearing that Ms Weeden was not in attendance and that written notice of this hearing had been sent to her registered address by recorded delivery and by first class post on 18 July 2019. Notice of this hearing was delivered to Ms Weeden's registered address on 19 July 2019.

The panel took into account that the notice letter provided details of the allegation, the time, dates and venue of the hearing and, amongst other things, information about Ms Weeden's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

Mr Claydon submitted that the NMC had complied with the requirements of Rules 11 and 34 of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004, as amended ("the Rules").

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Ms Weeden had been served with notice of this hearing in accordance with the requirements of Rules 11 and 34. It noted that the rules do not require delivery and that it is the responsibility of any registrant to maintain an effective and up-to-date registered address.

## **Decision on proceeding in the absence**

The panel next considered whether it should proceed in the absence of Ms Weeden

The panel had regard to Rule 21 (2) which states:

- (2) Where the registrant fails to attend and is not represented at the hearing, the Committee—
- (a) shall require the presenter to adduce evidence that all reasonable efforts have been made, in accordance with these Rules, to serve the notice of hearing on the registrant;
  - (b) may, where the Committee is satisfied that the notice of hearing has been duly served, direct that the allegation should be heard and determined notwithstanding the absence of the registrant; or
  - (c) may adjourn the hearing and issue directions.

Mr Claydon invited the panel to continue in the absence of Ms Weeden on the basis that she had voluntarily absented herself. Mr Claydon submitted that Ms Weeden has explicitly stated she will not be attending these proceedings and, therefore, there was no reason to believe that an adjournment would secure her attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised with the utmost care and caution. The panel further noted the case of *General Medical Council v Adeogba; General Medical Council v Visvardis* [2016] EWCA Civ 162.

The panel noted the email correspondence from Ms Weeden dated 26 August 2019 in which she stated:

*“I have said several times that I have retired from practice on the grounds that my fitness to practice has been impaired by my health.”*

*In the circumstances, I do not intend to come to the hearing.”*

The panel has decided to proceed in the absence of Ms Weeden. In reaching this decision, the panel has considered the submissions of the case presenter, and the advice of the legal assessor. It had regard to the overall interests of justice and fairness to all parties. It noted that:

- no application for an adjournment has been made by Ms Weeden;
- there is no reason to suppose that adjourning would secure her attendance at some future date;
- one witness has attended today to give live evidence, others are due to attend;
- not proceeding may inconvenience the witnesses, their employers and, for those involved in clinical practice, the clients who need their professional services;
- further delay may have an adverse effect on the ability of witnesses accurately to recall events;
- there is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Ms Weeden in proceeding in her absence. She will not be able to challenge the evidence relied upon by the NMC and will not be able to give evidence on her own behalf. However, in the panel's judgment, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Ms Weeden's decision to absent herself from the hearing, waive her right to attend and/or be represented and to not provide evidence or make submissions on her own behalf.

In these circumstances, the panel has decided that it is fair, appropriate and proportionate to proceed in the absence of Ms Weeden.

## **Applications to give evidence via telephone**

Mr Claydon indicated to the panel that he was prepared to read the witness statements of Ms 2 and Ms 3 but informed the panel that if they had any substantial questions he would arrange for the witnesses to attend the hearing.

The panel considered this and decided that it would be appropriate to hear the evidence of both witnesses via telephone. It would be convenient to them and would not be prejudicial to Ms Weeden as they were only dealing points of clarification.

## **Background**

The charges arose whilst Ms Weeden was employed as a Registered Nurse by North & East Hertfordshire NHS Trust (the Trust). On 20 September 2017 it is alleged that Ms Weeden administered drugs to Patient A without having had his medication checked and signed for by a colleague. The drugs administered included: Metroclopramide, Erythromycin, Pabrinex, Omeprazole, Co-Amoxiclan, Paracetamol, Losartan, Simvastatin, Salbutamol and Atrovent.

It is also alleged that Ms Weeden entered Colleague 1's initials as the counter signatory for her entries on Patient A's drug chart. It is alleged that this was dishonest in that Ms Weeden intended to conceal that she had administered medication without a second checker and / or intended to mislead anyone reading the drug chart that Colleague 1 had acted as a second checker for the medication Ms Weeden administered.

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

In reaching its decisions on the facts, the panel considered all the evidence adduced in this case together with the submissions made by Mr Claydon on behalf of the NMC.

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

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 three witnesses tendered on behalf of the NMC.

Witnesses called on behalf of the NMC were:

Ms 1 – Band 5 Nurse at the Trust;

Ms 2 – Band 5 Nurse in the Critical Care unit at the Trust;

Ms 3 – Chief Nursing Information Officer at the Trust

The panel first considered the overall credibility and reliability of all of the witnesses it had heard from.

The panel found Ms 1 to be credible and reliable. It found her evidence to be consistent with her statement at the time of the allegations and during the investigations by the Trust. The panel also noted the fact that she immediately raised with her seniors the fact she had not countersigned Patient A's drug charts on 20 September 2017 and she did so as soon as she saw the charts.

The panel found Ms 2 to be clear and answered its questions to the best of her ability. It found her to be consistent with her statement at the time of the allegations and during

the investigations by the Trust. The panel noted that she was not directly involved in the incident, but was on shift when the allegations occurred. The panel found her to be a credible witness.

The panel found that Ms 3's evidence was consistent with her witness statement. It noted that she had conducted the investigatory interviews and was not present on the ward on the night of the incident. The panel found her to be open and honest with what she found out at the investigation stage. The panel found her to be a credible witness.

In the case management form dated 10 April 2019 (see (d) below) Ms Weeden admitted the following charge;

**Charge 1:**

On 20 September 2017:

(a) Administered the following drugs to patient A without having had his medication checked and signed for by a colleague:

- j) Metroclopramide
- ii) Erythromycin
- iii) Pabrinex
- iv) Omeprazole
- v) Co-Amoxiclan
- vi) Paracetamol
- vii) Losartan
- viii) Simvastatin
- ix) Salbutamol
- x) Atrovent

The panel therefore found charge 1 (a) proved by Ms Weeden's admission.



The panel then went on to consider the remaining charges and made the following findings:

**Charge 1:**

- (b) That you entered Colleague 1's initials as the counter signatory for your entries on patient A's drug chart.

**This charge is found proved.**

Ms Weeden has given a number of differing accounts of the event of 20 September 2017.

**a. The original statement of 22 September 2017**

The panel considered Ms Weeden's original statement on 22 September 2017, which was prepared for the internal investigation, two days after the alleged incident. The panel noted that in this statement Ms Weeden said:

*"I put my drugs into a dish and then went to the back to collect them when they were signed for."*

She continued in this initial statement to say:

*"I am aware that [Ms 1] said this was not her signature and I am not aware what her signature appears like."*

The panel noted that Ms 1 had been very clear in her evidence in explaining that the signature in the drug chart was not written by her and that she was certain that Ms Weeden did not ask her to check or countersign any drugs for Patient A on 20

September 2017. The panel also heard Ms 2 confirm that she did not check or sign any drug chart for Patient A. The panel accepted the evidence of both Ms 1 and Ms 2.

**b. The investigatory meeting 23 November 2018**

In the investigatory meeting conducted by Ms 3 on 23 November 2018, the panel noted that Ms Weeden, when asked if she had ever signed a drug chart on anyone's behalf, stated:

*"Not knowingly, No."*

The panel noted that when Ms Weeden was questioned about signing the drug chart on Ms 1's behalf stated:

*"I can't remember, Not knowingly No. I do not believe I did No." [sic]*

The panel also noted that, after being shown a signature confirmed by Ms 1 to be her own, whether she knew the signature Ms Weeden explained:

*"I don't know I am presuming its [Ms 1's]. I can't remember asking [Ms 1] or [Ms 2] to check drug'."*

**c. NMC Response to regulatory concerns form 28 July 2018**

The panel then considered Ms Weeden's regulatory concerns response form dated 28 July 2018 in which ticked yes and accepted both concerns including failure to adhere to safe drug administration protocols and dishonesty – falsifying patient records. The panel noted Ms Weeden's supporting statement in which she stated:

*"I have seen evidence provided by my employer and acknowledge that these events took place."*

The panel noted that Ms Weeden had changed her account from initially not remembering her actions to accepting the allegations against her.

**d. NMC case management form 10 April 2019**

At page 4 of the case management form dated April 10 2019 (proceeding in absence bundle, page 10) Ms Weeden ticked yes to all allegations against her and also ticked yes to intending to apply for voluntary removal from the NMC register.

**e. Final response to charges 10 June 2019**

The panel then considered Ms Weeden's retraction of acceptance of some of the allegations in her final response to the charges dated 10 June 2019. In response to charge 1 (b) and charge 2, Ms Weeden ticked the 'no' boxes and explained her reasons for doing so in a statement also dated 10 June 2019 (page 30) in which she said:

*"I have no memory of events on this night...I deny knowingly doing anything with an intention to deceive or mislead anybody."*

Taking all of the above into account the panel determined that Ms Weeden has been inconsistent with her evidence from the very start of the allegations. It decided that the evidence of her two other colleagues who were on shift on the night of the allegations is more credible. It decided that the only plausible explanation is that Ms Weeden did enter Ms 1's initials as the counter signatory for her entries on Patient A's drug chart.

Therefore the panel found this charge proved.

**Charge 2:**

- 2) That your conduct respect of 1) b) above was dishonest in that you intended to conceal that you had administered medication without a second checker and / or intended to mislead anyone reading the drug chart that Colleague 1 had acted as a second checker for the medication you administered.

**This charge is found proved.**

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

As has been set out above, in her final response to the charges Ms Weeden denied acting dishonestly, maintaining that she had:

*“...no memory of events of this night now more than 20 months ago, due to [her health condition] impairing my ability to practice safely.”*

The panel noted that both Ms 1 and Ms 2 were not aware that Ms Weeden had a health condition. Ms 2 when questioned by the panel on this explained that on the night of the allegations there were no signs of ill health and Ms Weeden looked and acted like her “usual self”.

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The panel considered that Ms Weeden in her initial statement about the allegations on 22 September did not raise her health condition until the investigatory meeting on 23 November 2017. The panel also noted that her manager and colleagues were not aware of her health condition and she had not ‘virtually no reported sickness’ leading up to the allegations.

The panel therefore rejected Ms Weeden’s account that she had no memory of events for medical reasons and found that there is no other plausible explanation for Ms

Weeden's behaviour in falsifying Ms 1's signature other than she was being dishonest in concealing she had administered medication without a second checker and / or intended to mislead anyone reading the drug chart that Ms 1 had acted as a second checker.

The panel therefore found this charge 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 Ms Weeden's fitness to practise is currently impaired. There is no statutory definition of fitness to

practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

In his submissions Mr Claydon invited the panel to take the view that Ms Weeden's actions amount to a breach of *The Code: Professional standards of practice and behaviour for nurses and midwives* (2015) (the Code). He then directed the panel to specific paragraphs and identified where, in the NMC's view, Ms Weeden's actions amounted to misconduct.

Mr Claydon 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.'

He 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. Mr Claydon referred the panel to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

The panel has accepted the advice of the legal assessor which included reference to a number of judgments which are relevant including *Fatnani & Raschid v GMC* [2007] EWCA Civ 46

The panel adopted a two-stage process in its consideration, as advised. First, the panel must determine whether the facts found proved amount to serious misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Ms Weeden's 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 Ms Weeden's actions did fall significantly short of the standards expected of a registered nurse, and that her actions amounted to a breach of the Code. Specifically:

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

To achieve this, you must:

10.3 complete records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements

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

### **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...

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 there was a risk of significant harm as a second checker is a way to mitigate the risk of a drug error particularly with

vulnerable patients in critical care. By falsifying the drug chart Ms Weeden also implicated another colleague.

Therefore, the panel found that Ms Weeden's 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 Ms Weeden's 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 having heard submissions, principally from Ms McDonald, 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 considered the risk of future harm and whether or not any harm identified would amount to serious harm. In order to assess the extent of the risk of future misconduct, the panel first considered the question of Ms Weeden's insight into the charges in this case.

Regarding insight, the panel considered that Ms Weeden had not shown any evidence of reflection on her actions. Mr Claydon invited the panel to consider the previous disciplinary matter that happened in 2011 which involved similar allegations as were raised in this case. Although the panel had not heard any evidence in respect of that earlier disciplinary matter it recognised that, even if Ms Weeden denied those matters, she should have at least reflected upon how such allegations had arisen and how she

could have ensured that there would no repetition in future. She would also be aware of what the expected practice is that she needed to adhere to.

In this case Ms Weeden had denied the allegations in charge 1 (b) and 2 as she believed they arose from her health condition although she accepted charge 1 (a). At no stage had she shown any consideration for the effect that her misconduct may have had on the care that was provided to her patients or the impact that it may have had upon her colleagues who were on duty that night. The panel noted that even though Ms Weeden was entitled to contest allegations, it would have been possible for her to have taken steps to ensure that there was no repetition of such matters.

The panel went on to consider whether or not Ms Weeden had demonstrated any remorse or taken steps to remediate her misconduct either at the internal Trust investigation or within this hearing. Although Ms Weeden, at various points in time accepted that all the allegations may have occurred, she did not show any remorse or any steps taken in remediation. The panel had concerns around her deflecting responsibility to her health condition, which she has a duty to manage and ensure she is fit to practise.

The panel considered the four limbs set out in *Grant* and concluded that all four limbs of Dame Janet Smith's Fifth Report from Shipman are engaged.

The panel recognised that although Ms Weeden is not currently working, a finding of no impairment would mean she is able to practise unrestricted. The panel concluded that in the absence of any steps to remediate the behaviours identified in respect of the misconduct in this case there would be a risk of serious harm to patients. 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 noted Ms Weeden's lack of insight or acknowledgement that similar incidents will not happen again. Therefore the panel determined that, in this case, a finding of impairment on public interest grounds was required.

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

## **Determination on sanction:**

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

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case. The panel accepted the advice of the legal assessor. 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 Sanctions Guidance (SG) published by the NMC. It recognised that the decision on sanction is a matter for the panel, exercising its own independent judgement.

Mr Claydon told the panel that the NMC's sanction bid was for a striking-off order. Mr Claydon affirmed the NMC's position and invited the panel to make this sanction.

Mr Claydon set out what he considered to be the aggravating and mitigating features of this case. He submitted that, in light of Ms Weeden's previous disciplinary history and the facts of this case, a suspension order would not be sufficient to protect patients and the public and maintain public confidence in the profession.

The panel identified the following aggravating factors:

- Ms Weeden put vulnerable patients of level 3 critical care at serious risk of harm;
- Ms Weeden's failure to learn or gain insight from previous incidents;
- The lack of insight into her current failings;
- Ms Weeden implicated a more junior colleague which could have caused them concerns.

The panel then identified the following mitigating factors:

- Ms Weeden's long career as a nurse dating back to 1978;
- No previous regulatory findings made against her by the NMC;
- No actual harm caused by Ms Weeden's actions

This is a case where the NMC alleged dishonest conduct by Ms Weeden which the panel found proved. The panel had regard to the NMC's guidance on dishonesty and concluded that Ms Weeden's dishonesty involved vulnerable victims, a direct risk to patients and an element of premeditation during the shift in question.

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.

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, however the Fitness to Practise committee wants to mark that the behaviour was unacceptable and must not happen again.' The panel considered that Ms Weeden's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Ms Weeden's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges found proved in this case, and as Ms Weeden is no longer in employment as a nurse.

Furthermore the panel concluded that the placing of conditions on Ms Weeden's registration would not adequately address the seriousness of this case and would not protect the public.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG indicates that a suspension order would be appropriate where some of the following factors are apparent:

- 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 or midwife has insight and does not pose a significant risk of repeating behaviour
- In cases where the only issue relates to the nurse or midwife'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 or midwife's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions

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

The panel considered whether Ms Weeden's action were remediable but had real concerns around her lack of insight and was not satisfied that she did not pose a significant risk of repeating her actions. The panel therefore determined that it would not be a sufficient, appropriate or proportionate sanction. The panel took account of the fact that there was an alleged similar incident in 2011.

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

- 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 the NMC's Guidance on dishonesty and noted that Ms Weeden had breached a duty of candour to patients and had been dishonest at different times on one shift. The panel had regard to the case of *Parkinson v NMC* [2010] EWHC 1898 (Admin) in which, Mr Justice Mitting said:

“A nurse found to have acted dishonestly is always going to be at severe risk of having his or her name erased from the register. A nurse who has acted dishonestly, who does not appear before the Panel either personally or by solicitors or counsel to demonstrate remorse, a realisation that the conduct criticised was dishonest, and an undertaking that there will be no repetition, effectively forfeits the small chance of persuading the Panel to adopt a lenient or merciful outcome and to suspend for a period rather than direct erasure.”

The panel had regard to the fact that not only had Ms Weeden decided not to take part in the hearing, she had also failed to provide any material before the panel in writing which could assist it in deciding the extent of any insight, remorse or steps taken to remediate her misconduct. In her response Ms Weeden maintained that any failing was due to her health condition but she did not produce any material to assist the panel nor did she take any responsibility for managing her condition.

Furthermore, the panel were satisfied that Ms Weeden has not shown that she has taken any steps to mitigate the risk of her repeating her actions which raised concerns



in respect of patient safety. The panel noted that Ms Weeden had not demonstrated that she realised she had acted in a dishonest way, and did not tell the panel that this would not happen again. Therefore, the panel on this basis, for reasons of patient safety and maintaining trust and confidence in the professions, decided on a striking of order.

Ms Weeden's actions were significant departures from the standards expected of a registered nurse. The panel was of the view that the findings in this particular case demonstrate that Ms Weeden's actions were serious and to allow her to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the matters it identified, including the effect of Ms Weeden's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct herself, the panel has concluded that nothing short of this would be sufficient in this case.

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

## **Determination on Interim Order**

The panel has considered the submissions made by Mr Claydon 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 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.

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

That concludes this determination.