Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
7 - 10 December 2021, 14 - 16 December 2021

Virtual Hearing

Name of registrant:	**Mr Serge Sachidanand Kejiou**
NMC PIN:	87I1947E
Part(s) of the register:	Registered Nurse - Sub Part 1 Mental Health (May 2000)
Area of registered address:	Kent
Type of case:	Misconduct
Panel members:	Suzy Ashworth (Chair, Lay member) Carol Porteous (Registrant member) Helen Eatherton (Registrant member)
Legal Assessor:	John Bassett
Panel Secretary:	Teige Gardner
Nursing and Midwifery Council:	Represented by Callum Munday, Case Presenter
Mr Kejiou	Not present and unrepresented throughout
Facts proved:	Charges 1b, 1c, 1d, 1e, 2, 3, 4, 5, 6, 7a, 7b, 7c, 7d, 8, 9, 10, 11, 12a, 12b, 12c, 12d
Facts not proved:	Charges 1a
Fitness to practise:	**Impaired**
Sanction:	**Striking-off order**
Interim order:	**Interim suspension order (18 months)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mr Kejiou was not in attendance and that the Notice of Hearing letter had been sent to Mr Kejiou's registered email address on 28 October 2021.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, dates and venue of the hearing and, amongst other things, information about Mr Kejiou's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

Mr Munday, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Mr Kejiou has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mr Kejiou

The panel next considered whether it should proceed in the absence of Mr Kejiou. It had regard to Rule 21 and heard the submissions of Mr Munday who invited the panel to continue in the absence of Mr Kejiou. He informed the panel that all reasonable efforts have been made to maintain contact with Mr Kejiou, however he has not directly contacted the NMC since 3 November 2021. Mr Munday submitted that Mr Kejiou had therefore voluntarily absented himself. He submitted that no application for adjournment has been made, therefore there is no guarantee that he would attend at a future date. In addition, Mr

Munday submitted that, in fairness to the NMC and the witnesses that are due to attend, it is appropriate to proceed in the absence of Mr Kejiou.

The panel accepted the advice of the legal assessor.

The panel has decided to proceed in the absence of Mr Kejiou. In reaching this decision, the panel has considered the submissions of Mr Munday and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *General Medical Council v Adeogba* [2016] EWCA Civ 162 and 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 Mr Kejiou;
- There is no reason to suppose that adjourning would secure his attendance at some future date;
- Number of witnesses are due to the hearing to give live evidence
- Not proceeding may inconvenience the witnesses, their employers and, for those involved in clinical practice, the clients who need their professional services; and
- There is a strong public interest in the expeditious disposal of the case.

The panel noted that, in Exhibit 2, it states that Mr Kejiou has not engaged with the NMC since 3 November 2021. However, it noted that on tables had been sent by Mr Kejiou on 25 November 2021. The panel was informed that these documents were sent by Mr Kejiou to the High Court, which were then redirected back to the NMC.

There is some disadvantage to Mr Kejiou in proceeding in his absence. Although the evidence upon which the NMC relies will have been sent to him at his registered address. He will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on his own behalf. However, in the panel's judgement, 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 Mr Kejiou's decisions to absent himself from the hearing, waive his rights to attend, and/or be represented, and to not provide evidence or make submissions on his own behalf.

In these circumstances, the panel has decided that it is fair, appropriate and proportionate to proceed in the absence of Mr Kejiou. The panel will draw no adverse inference from Mr Kejiou's absence in its findings of fact.

Details of charge

"That you, a registered nurse:

1) Failed to provide adequate care to Patient A in regard to a pressure sore in the lower back area in that you:

a) Did not provide adequate treatment for the pressure sore namely by using barrier and/or antiseptic creams;

b) Did not report/escalate to a district nurse and/or doctor that Patient A had a pressure sore;

c) Did not ensure that there was a record made and/or kept of when Patient A was turned;

d) Did not provide sufficient staff members to turn Patient A at night;

e) Did not ensure the Patient A was turned regularly at night.

2) On 7 March 2014, informed Mental Health Nurse B that there were two staff members on duty to attend to Patient A at night.

3) In November 2014, informed the Community Health Team Service Manager C that there were two staff members on duty to attend to Patient A at night.

4) In March 2015 communicated to Advance Senior Practitioner D that Patient A's skin was intact.

5) Did not ensure that Patient A's air mattress was set correctly in relation to Patient A's weight.

6) On or around 12 November 2015 informed a police officer, that you were not aware that Patient A had a pressure sore in the lower back area, before 19 March 2015.

7) Produced statements which:

a) Purported to have been written, produced or approved by Employee 1;
b) Purported to have been signed by Employee 1;
c) Purported to have been written, produced or approved by Employee 2;
d) Purported to have been signed by Employee 2.

8) Your actions as set out at charge 2 were dishonest in that you knew that on 7 March 2014 there was one staff member on duty at night.

9) Your actions as set out at charge 3 were dishonest in that you knew in November 2014 there was one staff member on duty at night.

10) Your actions as set out at charge 4 were dishonest in that that Patient A's skin was not intact.

11) *Your actions as set out at charge 6 were dishonest in that you knew Patient A had pressure sores before 19 March 2015.*

12) *Your actions as set out at charge 7 were dishonest in that you knew:*

a) *Employee 1 had not written, produced or approved the statement referred to in 7(a) and intended a police officer to be misled into believing Employee 1 had done so and that that statement was her account;*

b) *Employee 1 had not signed the statement referred to in 7(b);*

c) *Employee 2 had not written, produced or approved the statement referred to in 7(c) and intended a police officer to be misled into believing Employee 2 had done so and that that statement was her account;*

d) *Employee 2 had not sign the statement referred to in 7(d).*

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 Mr Munday, on behalf of the NMC, to amend the wording of charge 12(c).

The proposed amendment was to change *“her”* to *“his”.* He submitted that there would be no adverse effect on Mr Kejiou, as he is already aware of who Employee 2 is. It was submitted by Mr Munday that the proposed amendment would provide clarity and more accurately reflect the evidence.

"That you, a registered nurse:

12) Your actions as set out at charge 7 were dishonest in that you knew:

a) Employee 2 had not written, produced or approved the statement referred to in 7(c) and intended a police officer to be misled into believing Employee 2 had done so and that that statement was ~~her~~ ***his*** *account;*

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

The panel accepted the advice of the legal assessor and had regard to Rule 28 of 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel was of the view that such an amendment, as applied for, was in the interest of justice. The panel was satisfied that there would be no prejudice to Mr Kejiou and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore appropriate to allow the amendment, as applied for, to ensure clarity and accuracy.

Decision and reasons on application to admit Witness 8's hearsay evidence

The panel heard an application made by Mr Munday under Rule 31 to allow Witness 8's exhibitions into evidence. The exhibitions given by Witness 8 includes: the transcripts of the Mr Kejiou's police interview on 12 November 2015, the documents relied upon by the Mr Kejiou in his police interview, the statements of Employee 2 and the report from the handwriting expert who examined the documents relied upon by the Mr Kejiou.

Mr Munday submitted that it would be fair to admit the evidence of Witness 8 into evidence for the following reasons:

Interview:

He submitted that what is produced is simply a transcript of what was said. He submitted that Mr Kejiou does not dispute what was said in the interview and there is no suggestion that the transcript is in any way incorrect or inaccurate

Documents relied upon by Registrant:

Mr Munday submitted that these documents were produced by Mr Kejiou himself. He submitted that Mr Kejiou does not dispute their contents, and in fact, he continues to rely upon them.

Evidence of Employee 2:

Mr Munday submitted that the statement from Witness 2 is supportive of and supported by the handwriting expert report. Further, he submitted that it is rebuttal evidence in relation to Mr Kejiou's reliance upon the document purporting to be signed by Employee 2. He submitted that it would be unfair not to hear Employee 2's own account.

Handwriting expert:

Mr Munday informed the panel that the only comment made by Mr Kejiou about the handwriting expert is that the expert could not positively say that the documents were written by him. Mr Munday further submitted that this report is supportive of, and supported by, the evidence from Employee 2 and Witness 5.

Mr Munday invited the panel to admit the police interview transcripts into evidence.

The panel gave the application in regard to Witness 8's exhibitions serious consideration.. The panel noted that Mr Kejiou is relying on some of the documentation to defend himself.

Further the panel was satisfied that fairness to the registrant would be upheld if it decided to admit the hearsay evidence. In addition, the panel noted that Mr Kejiou has had every opportunity to challenge this evidence but has not done. In these circumstances, the panel came to the view that it would be fair and relevant to accept into evidence the exhibitions of Witness 8 but would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

Decision and reasons on facts

At the outset of the hearing, the panel heard from Mr Munday, who informed the panel that Mr Kejiou made admissions to some of the charges, with written reasons as to why he carried out his actions. Mr Munday submitted that it was for the panel to decide whether or not Mr Kejiou has admitted to any of the charges.

The panel accepted the advice of the legal assessor.

The panel therefore finds none of the charges proved in their entirety, by way of Mr Kejiou's admissions.

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Munday on behalf of the NMC.

The panel has drawn no adverse inference from the non-attendance of Mr Kejiou.

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

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

- Witness 1: Kent County Council Commissioning Officer

- Witness 2: Service Manager for Community Mental Health Team

- Witness 3: Kent County Council Advanced Senior Practitioner, at the time of the incidents

- Witness 4: Case Manager with the District Nursing Team at Herne Bay Hospital

- Witness 5: Health Care Assistant at the Home, at the time of the incidents

- Witness 6: Employee at the Home, at the time of the incidents

- Witness 7: Social Worker within the Housing Team, at the time of the incidents

- Witness 8: Police Officer, who investigated the case and carried out the police interviews

Background

The NMC received a referral about Mr Kejiou on 9 April 2015 from Kent and Medway NHS and Social Care Partnership Trust (“the Trust”).

Mr Kejiou was the registered owner and manager of Conifers Residential Home ("the Home") and the registered owner and manager of Parsonage Lodge. According to the referral, in October 2014 the Home was asked by Kent County Council (KCC) to ensure that Resident A had two staff in place at night to provide care. A spot check was carried out in March 2015. It was discovered that the resident had a grade 4 pressure sore at the base of her spine which was likely to have been there for some time. The extra night staff appeared not to have been put in place, although the Trust said in the referral document that *"the community team were assured in November that the lady had 2 to 1 care in place"*.

On 25 March a Safeguarding Vulnerable Adults conference was held. The matter was referred to the police. Mr Kejiou was arrested on 12 November 2015 and was then released on conditional bail.

The Care Quality Commission (CQC) conducted an inspection of the Home in August 2014 and an inspection of Parsonage Lodge in May 2015. Their report on Parsonage Lodge was very critical and gave an overall rating of its service as 'inadequate.' Moreover, the service was deemed not to be safe, effective or consistently caring.

In a telephone conversation on 16 November 2015, the Investigations team was informed by Kent Safeguarding that the Home had been shut down.

In an email dated 17 October 2018, a Detective Sergeant indicated that the police investigation into Mr Kejiou's alleged conduct has been concluded and no charge has been laid against him, on the grounds of insufficient evidence.

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

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

Charge 1

"That you, a registered nurse:

1) *Failed to provide adequate care to Patient A in regard to a pressure sore in the lower back area in that you:*

This charge is found proved.

In reaching this decision, the panel took into account the written and oral information from Witness 5 and 4. The panel was satisfied that Mr Kejiou had a duty of care to ensure that residents were being treated correctly and was responsible to ensure the care being given by health care assistants was sufficient, as he was the only registered nurse on the premises. The panel noted that Witness 5 told them that she had found the pressure sore and had shown Mr Kejiou. The panel was of the view that Witness 5 gave reliable and consistent information. Therefore, the panel was satisfied that Mr Kejiou knew about the pressure sore. In addition, the panel took into consideration the evidence from Witness 4, who told the panel in her oral evidence that *"the pressure sore had been there for some time".* The panel was of the view that Witness 4 was a credible and reliable witness. Furthermore, the panel noted that a pressure sore was found on Patient A's ankle in 2012. The panel was of the view that this highlighted that Patient A was susceptible to pressure sores and Mr Kejiou would have been aware about this for some time before the incidents, as set out in the charges, occurred. Additionally, the panel noted that the Home bought an air mattress, commonly used to prevent pressure sores from occurring, for Patient A around the time of the charges, which indicated that Mr Kejiou was aware of the pressure sore. Therefore, the panel was satisfied that Mr Kejiou was aware of the pressure sore on the Patient A's lower back for some time and failed to treat it adequately.

Charge 1a)

"….

a) *Did not provide adequate treatment for the pressure sore namely by using barrier and/or antiseptic creams;"*

This charge is found NOT proved.

In reaching this decision, the panel took into account the oral evidence from Witness 5. The panel noted that she told the panel that she used *"proshield"* cream to help treat the pressure sore. The panel noted that Witness 4 told them in evidence that she did not see any evidence of barrier creams being used. However, as Witness 5 directly treated Patient A, the panel placed more weight on her evidence. The panel therefore found this charge not proved.

Charge 1b)

"…

b) *Did not report/escalate to a district nurse and/or doctor that Patient A had a pressure sore;"*

This charge is found proved.

In reaching this decision, the panel took into account the oral and written evidence from Witnesses 3 and 5, Mr Kejiou's filled in Case Management Form (CMF) and the Patient Progress Notes. The panel noted that Witness 5 told it that she had informed Mr Kejiou about the pressure sore and had spoken with another Health Care Assistant about it, specifically saying that she was of the opinion this should have been escalated earlier than it was. The panel noted that this was consistent with Witness 5's witness statement. In addition, in her witness statement, Witness 5 stated that:

> *"When the Registrant arrived for the day shift, I would ask him to have a look at the pressure sore so that he was aware of it. I was present when the Registrant looked at Patient A's pressure sore."*

As the panel was of the view Witness 5's evidence is reliable, credible and accurate, it was satisfied that Mr Kejiou was aware of the pressure sore. The panel also had regard to Witness 3's witness statement, in which states that Mr Kejiou did not escalate the pressure sore issue. In his witness statement, he states that the issue was escalated following an anonymous safeguarding phone call from the Home. This is corroborated in the Patient Progress Notes from 17 March 2015, in which it states:

> *"Had a phone call from a lady who refused to give her name stating that she worked at the Conifers and wanted to remain anonymous but wanted to report her concerns about Patient A's treatment there. Patient A reportedly has some very nasty bed sores which are obviously causing her a lot of pain and although she cannot speak often has tears in her eyes. Apparently no one is allowed to contact the District Nurses and these sores are not being attended to properly."*

In addition, the panel noted Mr Kejiou's completed CMF, in which he admits to not escalating the incident. The panel therefore found this charge proved.

Charge 1c)

"…

c) *Did not ensure that there was a record made and/or kept of when Patient A was turned;"*

This charge is found proved.

In reaching this decision, the panel took into account the oral evidence of Witness 5. The panel noted that she told it that she would turn Patient A over at night by herself, using a sheet, and this would be very difficult. The panel noted that Witness 5 told it that she was unable to use the laptop, so Mr Kejiou would write the records for her. The panel was of the view that Witness 5 gave accurate and reliable evidence throughout. In addition, the panel took into consideration Mr Kejiou's admissions in his completed CMF, in which he

admitted that the record keeping was not good. Therefore, the panel was satisfied that this charge is found proved.

Charge 1d)

> "…
> d) *Did not provide sufficient staff members to turn Patient A at night;"*

This charge is found proved.

In reaching this decision, the panel took into account the evidence from Witness 3, 5 and 7 and Mr Kejiou's completed CMF. It also had regard to the Patient Progress Notes. The panel noted that both Witness 3 and 7 stated that the hoist, needed to turn Patient A, required two people to operate safely. In addition the panel considered Witness 5's oral evidence, in which she told the panel that she was the only person working on the nightshifts.

In the Patient Progress Notes, on 13 March 2015, it states:

> *"Concerns had been raised about whether Patient A's needs were being met at the Home, as she now has nursing requirements. There has only been one carer and the manager on duty at times. The manager informed me on my last visit that this is now been increased to 2."*

However, the panel noted that in Mr Kejiou's completed CMF form, he stated that there was only ever one member of staff on the duty over nights. In addition, it noted that Witness 5 told the panel that the other member of staff on the night shift, a cleaner, refused to touch or turn patients at the Home, as she had no experience doing so. Therefore, the panel determined that this charge is found proved.

Charge 1e)

"…

f) *Did not ensure the Patient A was turned regularly at night."*

This charge is found proved.

In reaching this decision, the panel took into account the oral and written evidence from Witness 5 and 8. The panel noted that Witness 5 said she would try to turn the patient when she was working on night shifts by herself. However she found this difficult, as two people were required to work the hoist. In her Witness statement, Witness 5 wrote that:

> *"I would turn Patient A twice during a night shift… The Registrant would not ask me to turn Patient A during the night."*

In addition, in her Witness statement, Witness 5 writes:

> "*The Registrant asked a cleaner, [REDACTED], to work sleeping night shifts as there was no one else he could ask. [REDACTED] told me that she was unable to turn Patient A…"*

The panel noted that this is consistent with Witness 5's police statement. The panel was of the view that Witness 5 was a credible and reliable witness. Therefore the panel determined that, on the balance of probabilities, this charge is found proved.

Charge 2

2) *On 7 March 2014, informed Mental Health Nurse B that there were two staff members on duty to attend to Patient A at night.*

This charge is found proved.

In reaching this decision, the panel took into account the oral and written evidence from Witness 6. The panel noted that, in her oral evidence, Witness 6 told the panel that she was assured by Mr Kejiou that there would be two staff members on duty to attend to Patient A at night. This is corroborated by Witness 6's written notes in the Patient Progress Notes, which states:

> *"There has only been one carer and the manager on duty at times. The manager informed me on my last visit that this is now been increased to 2."*

The panel further noted that this is corroborated in Witness 6's witness statement, in which she writes that she was assured by Mr Kejiou that there were two members of staff on shift to care for Patient A overnight. The panel was satisfied that, on the balance of probabilities, Mr Kejiou assured Witness 6 on 7 March 2014 that there were two members of staff on duty to attend to Patient A overnight. Therefore, the panel found this charge proved.

Charge 3

> *3) In November 2014, informed the Community Health Team Service Manager C that there were two staff members on duty to attend to Patient A at night.*

This charge is found proved.

In reaching this decision, the panel took into account the oral and written evidence from Witness 2 and the oral evidence from Witness 1. Both Witness 1 and 2 told the panel in their oral evidence that they attended a meeting with Mr Kejiou, in which he told them that there were two members of staff on duty at night attending to Patient A. The panel was of the view that the evidence from reliable and credible. The panel also noted that, in the Patient Progress Notes from 10 November 2014, it states:

> *"… relaying concerns that the Conifers have no waking night staff and that the client there who needs hoisting is not receiving care through the night."*

The panel therefore determined that, on the balance of probabilities, this charge is found proved.

Charge 4

> *4) In March 2015 communicated to Advance Senior Practitioner D that Patient A's skin was intact.*

This charge is found proved.

In reaching this decision, the panel took into account the written and oral evidence from Witness 3 and Mr Kejiou's completed CMF. The panel noted that, in Witness 3's witness statement, he states that:

> *"I asked him why he had told me on the telephone last week that Patient A did not have any pressure sores on her body. The Registrant said he was not aware of Patient A having any sores."*

In addition, the panel noted that this written statement was corroborated by Witness 3's oral evidence, in which he stated that he asked why Mr Kejiou had not told him earlier about the pressure sores on Patient A's body. The panel found Witness 3's evidence to be truthful, reliable and credible. In addition, the panel noted that in Mr Kejiou's returned CMF he admitted to this charge. Therefore, the panel found this charge proved.

Charge 5

> *5) Did not ensure that Patient A's air mattress was set correctly in relation to Patient A's weight.*

This charge is found proved.

In reaching this decision, the panel took into account Mr Kejiou's returned CMF form and Witness 4's oral evidence. The panel noted that Witness 4 told it that the air mattress was set to 120KG, when it should have been approximately 45KG. Although there was no solid information regarding Patient A's weight, the panel was of the view that Witness 4's evidence was reliable and accurate. In addition, the panel noted that in Mr Kejiou's returned CMF form, he admitted to this charge. However, the panel rejected his explanation that his actions were due to a lack of knowledge, as there are instructions regarding how to set up an air mattress. Therefore, the panel found this charge proved.

Charge 6

> *6) On or around 12 November 2015 informed a police officer, that you were not aware that Patient A had a pressure sore in the lower back area, before 19 March 2015.*

This charge is found proved.

In reaching this decision, the panel took into account the transcript from Mr Kejiou's police interview. In which, Mr Kejiou stated that he was *"gobsmacked"* when he found out about the pressure sores on Patient A and had no prior knowledge of them. Therefore, the panel found this charge proved.

Charge 7

> *7) Produced statements which:*
> *a) Purported to have been written, produced or approved by Employee 1;*
> *b) Purported to have been signed by Employee 1;*
> *c) Purported to have been written, produced or approved by Employee 2;*
> *d) Purported to have been signed by Employee 2.*

This charge is found proved.

In reaching this decision, the panel took into account the transcript from Mr Kejiou's police interview and Witness 8's witness statement. In Witness 8's witness statement he states that:

> *"The Registrant brought with him a folder of papers; he was quite prepared… These three typed documents with purported to be records of conversations between the Registrant and three members of staff… The documents appeared to be signed by the members of staff."*

In his witness statement, Witness 8 states that the records of conversations were between Witness 5 and Employee 2. The panel noted that transcript from Mr Kejiou's police interview corroborated Witness 8's witness statement. The panel was of the view that Witness 8 was credible, reliable and accurate. Therefore, the panel found this charge to be proved.

Charge 8

> *8) Your actions as set out at charge 2 were dishonest in that you knew that on 7 March 2014 there was one staff member on duty at night.*

This charge is found proved.

In reaching this decision, the panel took into account Mr Kejiou's returned CMF form and the evidence from Witness 5. The panel noted that, in both her written and oral evidence, Witness 5 states that she was the only nurse working on the nightshift. In addition, the panel noted that Mr Kejiou had admitted to this charge in his returned CMF. Therefore, the panel concluded that Mr Kejiou's actions were dishonest, as he would have known there was only one staff member on duty at night. The panel therefore determined that this charge is found proved.

Charge 9

> *9) Your actions as set out at charge 3 were dishonest in that you knew in November 2014 there was one staff member on duty at night.*

This charge is found proved.

In reaching this decision, the panel took into account Witness 2 and 5 and the transcript from Mr Kejiou's police interview. It noted that Witness 2 stated in her oral evidence that Mr Kejiou assured her that there were two carers attending to Patient A overnight. However, the panel noted the evidence from Witness 5, who stated that it was only her working on nightshifts attending to Patient A. In addition, it noted that in his police interview Mr Kejiou stated that there was only one employee working overnight throughout the entirety of 2014 and in early 2015. Therefore, the panel was of the view that Mr Kejiou had been dishonest in charge 3, as he knew there was only one worker working overnight to attend to Patient A but claimed that there was two regardless. The panel determined that this charge is found proved.

Charge 10

> *10) Your actions as set out at charge 4 were dishonest in that that Patient A's skin was not intact.*

This charge is found proved.

In reaching this decision, the panel took into account the evidence from Witness 3 and 5. The panel took into consideration Witness 3's evidence. Witness 3 told the panel that Mr Kejiou told him over the telephone that Patient A did not have any pressure sores. When Patient A was found to have pressure sores a week later, Witness 3 told the panel that he asked Mr Kejiou why he told him over the telephone that she did not. In response to this, Witness 3 told the panel that Mr Kejiou said that he was unaware of any pressure sores. In addition, the panel noted that, in her written Witness statement, Witness 5 stated that:

“When the Registrant arrived for the day shift, I would ask him to have a look at the pressure sore so that he was aware of it. I was present when the Registrant looked at Patient A’s pressure sore.”

Therefore, as the panel found both Witness 5 and Witness 3’s evidence to be credible and reliable, it determined that, on the balance of probabilities, that Mr Kejiou was dishonest in charge 4, as he was aware of the pressure sore, and that Patient A’s skin was not intact. The panel determined that this charge is proved.

Charge 11

11) Your actions as set out at charge 6 were dishonest in that you knew Patient A had pressure sores before 19 March 2015.

This charge is found proved.

In reaching this decision, the panel took into account the evidence from Witness 5 and Mr Kejiou’s returned CMF form. As stated above, the panel accepted that Mr Kejiou was made aware of the pressure sores before 19 March 2015 by Witness 5. In addition, it noted Mr Kejiou had admitted to this charge in his returned CMF form. Therefore, the panel determined that this charge is proved.

The panel noted that, at various stages across his CMF form, Mr Kejiou asserted that he was not dishonest, as he claims Kent County Council knew that the extra nightshift worker was dependant on extra funding. However, the panel rejected this excuse. The panel was of the view that Mr Kejiou had a duty of care to Patient A. The panel was of the view that Mr Kejiou should have informed Kent County Council that he did not have the capacity to tend to the needs of Patient A. The panel took into consideration the evidence of Witness 7 when coming to this conclusion. Witness 7 told the panel that funding meetings happened at the end of every month, giving Mr Kejiou time to have arranged extra funding to attain a second nightshift worker to attend to Patient A. In addition, she told the panel

that there was no impression that the Home was struggling financially at the time of the incidents.

Charge 12

12) Your actions as set out at charge 7 were dishonest in that you knew:

a) Employee 1 had not written, produced or approved the statement referred to in 7(a) and intended a police officer to be misled into believing Employee 1 had done so and that that statement was her account;

b) Employee 1 had not signed the statement referred to in 7(b);

c) Employee 2 had not written, produced or approved the statement referred to in 7(c) and intended a police officer to be misled into believing Employee 2 had done so and that that statement was her account;

d) Employee 2 had not sign the statement referred to in 7(d).

This charge is found proved.

In reaching this decision, the panel took into account the police statements from Witness 5 and Employee 2 and the handwriting expert report. The panel noted that in both Witness 5's and Employee 2's police statements, they state that the reports provided by Mr Kejiou were not true. The panel noted that this was corroborated by the handwriting expert report, in which confirmed that the signatures on the documents were not consistent with the handwriting of Witness 5 or Employee 2.

The panel noted that Mr Kejiou, in response to the handwriting expert's report, stated that the signatures cannot be related to him. In addition, the panel noted the transcript of Mr Kejiou's police interview. However, it was of the view that Mr Kejiou's explanation of the

circumstances surrounding the documents was incredible and not reliable. Therefore, the panel determined that this charge is found proved.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Mr Kejiou'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 Mr Kejiou's suitability to remain on the register unrestricted.

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

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

Submissions on misconduct

In coming to its decision, the panel had regard to the case of *Roylance v General Medical Council (No. 2)* [2000] 1 AC 311 which defines misconduct as a *'word of general effect, involving some act or omission which falls short of what would be proper in the circumstances.'*

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

Mr Munday identified the specific, relevant standards where Mr Kejiou’s actions amounted to misconduct. From the outset, Mr Munday submitted that, as the panel found charge 1a not proved, when he refers to charge one it ought to be understood as being charge 1b to 1e.

Mr Munday submitted that the facts now found proved both individually and cumulatively amount to misconduct.

Mr Munday submitted that charges 1 and 5 are demonstrative of an attitudinal issue with Mr Kejiou acting at times dispassionately and with a lack of urgency or impetus when it came to the safety, wellbeing and comfort of Patient A. Mr Munday submitted that Mr Kejiou’s actions would be considered deplorable by others in the profession and ought therefore to be classified as misconduct.

Mr Munday submitted that the most serious charges are the rest, as they relate to dishonesty. He submitted that, dishonesty, and in particular lying, strikes at the core of the values of the nursing profession. He submitted that what the panel may consider to be even more concerning is the repetition of the dishonesty. He submitted that Mr Kejiou was dishonest on more than one occasion to more than one entity, including lying to three different persons involved in Patient A’s care as well as the police. Firstly, Mr Kejiou concealed the true position in regard to the available night staff to care for Patient A, then he concealed his knowledge of Patient A’s pressure sore and then he produced and relied upon falsified documents. Mr Munday submitted that this implies Mr Kejiou did this in an attempt to avoid any criminal investigation or sanction and instead to implicate a more junior member of staff.

Mr Munday submitted that Mr Kejiou’s actions were deliberately calculated to mislead colleagues and the police to divert blame or responsibility away from himself and onto others.

Mr Munday submitted that the behaviour of Mr Kejiou on all of the charges found proved, both individually and cumulatively amounts to misconduct and he invited the panel to reach that conclusion.

Submissions on impairment

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

Mr Munday submitted that Mr Kejiou is impaired by reason of the misconduct found in this case. Mr Munday accepted that, in Mr Kejiou’s response to the charges, he did admit to some of the charges. However, Mr Munday submitted that Mr Kejiou’s admissions were on premises that the panel found to be false.

Mr Munday submitted that a finding of impairment was necessary on the ground of public interest, as the panel have found Mr Kejiou’s actions to be dishonest. He submitted that dishonesty is serious misconduct, and the public would lose confidence in the nursing profession, and the NMC as its regulator, if a finding of impairment is not made.

Mr Munday submitted that, particularly in relation to the dishonesty charges, there is little evidence of remediation or reflection from Mr Kejiou, as he continues to deny these charges and to insist that the documents apparently signed by two of his employees are genuine. Mr Munday submitted that dishonesty is, in any event, very difficult to remediate.

He submitted that the dishonesty was repeated on numerous occasions, therefore there is a very real risk of repetition in the future.

Mr Munday submitted that, in relation to charges 1 and 5, there is clear misconduct. He submitted that Mr Kejiou denies these charges on the basis that it was out of his scope of competence to assist Patient A. He submitted that, as the panel have found this not to be the case, Mr Kejiou's fitness to practise is impaired. Mr Munday invited the panel to find impairment.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin). The legal assessor reminded the panel that there was no burden of proof in the assessment of misconduct and impairment, and these were matters for the panel's professional judgement.

Decision and reasons on misconduct

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

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

> *"1.1 treat people with kindness, respect and compassion*
>
> *1.2 make sure you deliver the fundamentals of care effectively*
>
> *1.4 make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay*

3.1 pay special attention to promoting wellbeing, preventing illhealth and meeting the changing health and care needs of people during all life stages

3.4 act as an advocate for the vulnerable, challenging poor practice and discriminatory attitudes and behaviour relating to their care

4.3 keep to all relevant laws about mental capacity that apply in the country in which you are practising, and make sure that the rights and best interests of those who lack capacity are still at the centre of the decision-making process

6.2 maintain the knowledge and skills you need for safe and effective practice

8.2 maintain effective communication with colleagues

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

10.2 identify any risks or problems that have arisen and the steps taken to deal with them, so that colleagues who use the records have all the information they need

11.1 only delegate tasks and duties that are within the other person's scope of competence, making sure that they fully understand your instructions

11.2 make sure that everyone you delegate tasks to is adequately supervised and supported so they can provide safe and compassionate care

13.1 accurately identify, observe and assess signs of normal or worsening physical and mental health in the person receiving care

13.2 make a timely referral to another practitioner when any action, care or treatment is required

13.3 ask for help from a suitably qualified and experienced professional to carry out any action or procedure that is beyond the limits of your competence

14.1 act immediately to put right the situation if someone has suffered actual harm for any reason or an incident has happened which had the potential for harm.

14.3 document all these events formally and take further action (escalate) if appropriate so they can be dealt with quickly

16.5 not obstruct, intimidate, victimise or in any way hinder a colleague, member of staff, person you care for or member of the public who wants to raise a concern

17.1 take all reasonable steps to protect people who are vulnerable or at risk from harm, neglect or abuse

19.3 keep to and promote recommended practice in relation to controlling and preventing infection

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

20.5 treat people in a way that does not take advantage of their vulnerability or cause them upset or distress

25.1 identify priorities, manage time, staff and resources effectively and deal with risk to make sure that the quality of care or service you deliver is maintained and improved, putting the needs of those receiving care or services first"

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 the charges found proved in this case amount to serious misconduct and a fundamental breach of the nursing profession. The panel determined that Mr Kejiou, as a registered nurse, had a duty of candour. In addition, the panel found that Mr Kejiou's reliance on deliberately falsified documents, in which he provided to the police, was done to in order to mislead the police and colleagues, and to deflect the blame for his actions onto more junior members of staff. The panel was of the view that Mr Kejiou's actions highlighted deep-seated attitudinal problems. The panel concluded that fellow practitioners in the profession would deem Mr Kejiou's actions and omissions, represented by the charges found proved, deplorable.

The panel found that Mr Kejiou's actions and omissions, represented by the charges found proved, did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Mr Kejiou's fitness to practise is currently impaired.

The panel noted that Mr Kejiou, in his response to the charges, admitted that his fitness to practise was impaired, albeit on a basis that the panel had found to be false.

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be honest and open and act

with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

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

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

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

> *'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her 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 was of the view that all the limbs of *Grant* were engaged in this case.

The panel finds that Patient A was put at risk and was caused physical and emotional harm as a result of Mr Kejiou’s misconduct. Mr Kejiou’s misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find the charges found proved extremely serious.

Regarding insight, the panel considered that there has been no insight shown by Mr Kejiou. The panel was of the view that Mr Kejiou has not provided any evidence before it today that he has insight into his behaviour, as set out in the charges found proved. In addition, the panel noted that Mr Kejiou denied most of the charges using explanations that the panel found to be false.

The panel carefully considered the evidence before it in determining whether or not Mr Kejiou has remedied his practice. The panel took into account the training certificates provided by Mr Kejiou. However, it was of the view that they were unrelated to the charges and were not sufficient to show that Mr Kejiou has remediated his actions.

The charges found proved represented significant clinical failings in the care of a vulnerable adult that caused unnecessary harm. 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; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public

confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel was of the view that a well-informed member of the public would be concerned to find that a nurse who has charges relating to dishonesty found proved against them, has not been found to be impaired. The panel is of the view that there is a risk of repetition based on Mr Kejiou's continued reliance on the falsified documents and that his dishonesty was repeated on numerous occasions. Therefore, in addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Mr Kejiou's fitness to practise impaired on the grounds of public interest.

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

Sanction

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

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

Submissions on sanction

Mr Munday informed the panel that in the Notice of Hearing, dated 28 October 2021, the NMC had advised Mr Kejiou that it would seek the imposition of a striking off order, if it found Mr Kejiou's fitness to practise currently impaired.

Mr Munday submitted that a striking off order is required to ensure the public are protected and the public interest is upheld. He submitted that the charges found proved are serious, as they relate to the mistreatment of a vulnerable adult and dishonesty. He submitted that the only appropriate sanction in this case is a striking off order.

He submitted that no order or a caution order would be inappropriate in this case, as Mr Kejiou's behaviour amounts to serious misconduct. He submitted that there are no conditions that could be formulated that would ensure the public is protected. He submitted that, as Mr Kejiou has not engaged with the NMC proceedings, there is no guarantee that he would adhere to any conditions imposed on his practice. He submitted that a suspension order was not appropriate in the circumstances of this case, as Mr Kejiou's behaviour was repeated and serious. Mr Munday submitted that, due to the seriousness of Mr Kejiou's behaviour, a suspension order would not be appropriate. Therefore, he invited the panel to impose a striking off order.

The panel accepted the advice of the legal assessor.

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- Mr Kejiou mistreated Patient A, a vulnerable patient, who was unable to protect herself and was reliant on Mr Kejiou for her daily physical and mental needs
- This mistreatment caused physical harm to Patient A

- Mr Kejiou covered up Patient A's condition, which worsened as a result
- Mr Kejiou lied repeatedly about the care provided to Patient A
- Mr Kejiou put pressure on a junior colleague not to raise concerns
- Mr Kejiou relied on false documents to mislead the police and to place the blame on a junior member of staff

The panel also took into account the following mitigating feature:

- No previous regulatory concerns of which the panel were made aware

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

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mr Kejiou's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mr Kejiou'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 Mr Kejiou's registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case and the lack of engagement from Mr Kejiou. In addition, the panel had no information regarding Mr Kejiou's current circumstances. The misconduct identified in this case were not matters that could be addressed through retraining. Furthermore, the

panel concluded that the placing of conditions on Mr Kejiou'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 states that a suspension order may be appropriate in certain circumstances in cases where dishonesty is proved. However, Mr Kejiou's 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 Mr Kejiou's actions and omissions is fundamentally incompatible with Mr Kejiou remaining on the register. The panel noted that Mr Kejiou has shown no insight into his actions and has provided little evidence of remediation. In addition, the panel noted that the allegations are extremely serious, as they relate to the mistreatment of Patient A, covering up her treatment and condition and lying to colleagues and the police. Therefore, in the circumstances of this case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

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

- *Do the 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?*

Mr Kejiou's misconduct involved significant departures from the standards expected of a registered nurse and are fundamentally incompatible with him remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Mr

Kejiou's misconduct was serious and to allow him to remain on the register 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 only appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of Mr Kejiou's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct himself, the panel has concluded that nothing short of this would be sufficient in this case.

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

This will be confirmed to Mr Kejiou in writing.

Interim order

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

Submissions on interim order

The panel took account of the submissions made by Mr Munday. He submitted that, in case Mr Kejiou appeals the decision, an interim suspension order is required to protect the public and uphold the public interest.

Decision and reasons on interim order

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

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months to ensure that an order is in place in case Mr Kejiou appeals this decision.

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

That concludes this determination.