

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

**Substantive Hearing  
08-19 August 2022**

Virtual Hearing

**Name of registrant:** Julie Sandra Harris

**NMC PIN:** 87C1204E

**Part(s) of the register:** Nursing, Sub Part 2  
RN2, Adult nurse (August 1989)  
Nursing, Sub Part 1  
RN1, Adult Nurse (September 1999)

**Relevant Location:** Essex

**Type of case:** Misconduct

**Panel members:** Richardo Childs (Chair, Lay member)  
Patience McNay (Registrant member)  
Clare Taggart (Lay member)

**Legal Assessor:** Paul Hester

**Hearings Coordinator:** Amira Ahmed  
Max Buadi (11 August 2022)

**Nursing and Midwifery Council:** Represented by Peter Saville, Case Presenter

**Mrs Harris:** Not present and not represented

**Facts proved:** 1, 2 and 3

**Facts not proved:** 4 (a), (b), (c), 5 (a), (b), 6 (a), (b) and 7

**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 Mrs Harris was not in attendance, nor represented and that the Notice of Hearing letter had been sent to Mrs Harris's registered email on 28 June 2022.

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

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegations, the time, date and venue of the hearing and, amongst other things, information about Mrs Harris' right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all of the information available, the panel was satisfied that Mrs Harris 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 Mrs Harris**

The panel next considered whether it should proceed in the absence of Mrs Harris. It had regard to Rule 21 and heard the submissions of Mr Saville who invited the panel to continue in the absence of Mrs Harris. He submitted that Mrs Harris had voluntarily absented herself.

Mr Saville referred the panel to the documentation from Mrs Harris which included an email dated 28 June 2022 which reads verbatim:

*“Hello I have read document, can’t fill form in.. I want be attending as I have already said so many times.. happy for hearing to go ahead...*

*[PRIVATE]*

*I haven’t paid my registration for over 2 years. I haven’t practiced as a nurse since I left the trust in 2019.. I do not ever wish to be a nurse..*

*in 32 years I never had a patient complain about me and saved many lives.. I always worked hard and gave a lot... [PRIVATE]” [sic]*

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 has decided to proceed in the absence of Mrs Harris. In reaching this decision, the panel has considered the submissions of Mr Saville and accepted 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 Mrs Harris;
- Mrs Harris has informed the NMC that she has received the Notice of Hearing and confirmed she is content for the hearing to proceed in her absence;
- There is no reason to suppose that adjourning would secure her attendance at some future date as Mrs Harris has expressed on a number of occasions that she does not wish to be involved with these proceedings in any way;
- Three witnesses are attending today to give evidence and six further witnesses are warned to give evidence on specific days;

- Not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- The charges relate to events that allegedly occurred between September 2018 and January 2019 and any further delay may have an adverse effect on the ability of witnesses to recall accurately; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mrs Harris in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her at her registered address, she will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on her 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.

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

### **Details of charges**

That you a registered nurse;

1. On the 14 January 2019 failed to follow the Trust Recruitment Policy by altering scores for interviews that you did not conduct.
2. Your actions in charge 1 showed a lack of integrity in that you used your position to manipulate the outcome of the interview scores for the benefit of Ms 1.

3. Your actions in charge 1 were dishonest in that you deliberately altered the interview scores to represent an outcome that you knew was not true.
4. Accessed medical records for Ms 1 without any clinical justification;
  - (a) On one or more occasions on the 4 September 2019.
  - (b) On the 18 September 2018.
  - (c) On the 14 December 2018.
5. Accessed medical records for Mr 1 without clinical justification;
  - (a) On the 14 December 2018.
  - (b) On the 4 January 2019.
6. Accessed medical records relating to Ms 2 without clinical justification;
  - (a) On one or more occasions on the 18 September 2018.
  - (b) On the 4 January 2019.
7. Failed to act with integrity in relation to charges 4 and/or 5 and/or 6 because you knew that you did not have any clinical justification to access the medical records but did so in any event.

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

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

At the outset of the hearing, Mr Saville made a request that this case be partly held in private on the basis that there will be mention of Mrs Harris's health and possibly that of an NMC witness. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

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

The panel determined that it would go into private session in connection with Mrs Harris's and/or any of the NMC witness's health as and when such issues are raised. It also noted that any mention of Mrs Harris's and/or any of the NMC witness's health would be marked private on the transcript.

### **Decision and reasons on application to admit hearsay evidence of Mr 2**

The panel heard an application made by Mr Saville under Rule 31 to allow the hearsay testimony of Mr 2 into evidence. Mr 2 was not present at this hearing. Mr Saville explained that Mr 2's statement was uncontentious as he provided computer generated records and factual documents about the IT systems at the Trust and was an IT professional. He described the evidence as documentary evidence that served as a vehicle through which other evidence could be considered. He explained that it was not the sole evidence in relation to any of the charges. Mr Saville submitted that it would be in Mrs Harris's interest for the evidence to be admitted, submitting that Mr 2 stated that he could not say who was accessing the computer system at any given time.

In the preparation of this hearing, the NMC had indicated to Mrs Harris that Mr 2 would be providing live evidence, but Mr Saville informed the panel that Mr 2 was not a registered nurse, therefore not compellable and had not been warned to give oral evidence at the hearing. However, Mr Saville submitted that the evidence of Mr 2 was important evidence which did not, because of its nature, appear to be in dispute and in light of this the NMC determined there is no unfairness to Mrs Harris to allow this application for hearsay evidence.

The panel accepted the legal assessor's advice on the law it should take into consideration in respect of this application, which included reference to *Thornycroft v NMC*, *NMC v Ogbonna (2010) EWCA Civ 126* and *R (Bonhoeffer) v GMC [2011] EWHC 1585 (Admin)*. Rule 31 provides that, so far as it is 'fair and relevant', a panel may accept evidence in a range of forms and circumstances, whether or not it is admissible in civil proceedings. *Thornycroft v NMC* provides the following factors to be taken into account:

- (i) whether the statements were the sole or decisive evidence in support of the charges;*
- (ii) the nature and extent of the challenge to the contents of the statements;*
- (iii) whether there was any suggestion that the witnesses had reasons to fabricate their allegations;*
- (iv) the seriousness of the charge, taking into account the impact which adverse findings might have on the Appellant's career;*
- (v) whether there was a good reason for the non-attendance of the witnesses;*
- (vi) whether the Respondent had taken reasonable steps to secure their attendance; and*
- (vii) the fact that the Appellant did not have prior notice that the witness statements were to be read.*

The panel gave the application in regard to Mr 2 consideration. The panel noted that Mr 2's statement had been prepared in anticipation of being used in these proceedings and contained the paragraph, 'This statement ... is true to the best of my information, knowledge and belief' and was signed by him.

In reaching its decision to admit the statement of Mr 2, the panel noted that his statement relates to serious charges. Further, the panel carefully considered Mrs Harris's response bundle and participation in the internal investigation to find if there was any material challenge to Mr 2's statement. The panel could find no such challenge. The panel determined that the statement and exhibits of Mr 2 were not the sole or decisive evidence

in relation to the charges. Mr 2 provides documentary evidence of which there does not appear to be anything before the panel to suggest that it has been fabricated. Further, the evidence relates to serious charges and although Mrs Harris has not been given prior notice of this application, this evidence does not appear to be disputed.

The panel considered that as Mrs Harris had been provided with a copy of Mr 2's statement and, as the panel had already determined that Mrs Harris had chosen voluntarily to absent herself from these proceedings, she would not be in a position to cross-examine this witness in any case. However, the panel is in a position to question the NMC witnesses that have been called to give live evidence in relation to the IT system and examine any inconsistencies that may exist between Mr 2's statement and the live evidence of the NMC witnesses.

In these circumstances, the panel came to the view that it would be fair and relevant to accept into evidence the hearsay statement of Mr 2. The panel will carefully consider and ascribe such weight to his statement in light of all of the other evidence as the panel decides at the fact finding stage.

### **Decision and reasons on application to admit hearsay evidence of Ms 9**

The panel heard an application made by Mr Saville under Rule 31 to allow the hearsay evidence of Ms 9 into evidence. Ms 9 was not present at this hearing. Mr Saville submitted that the evidence of Ms 9 is "effectively a corroboration" of evidence the panel has already heard pertaining to the relationship between Mrs Harris and Mr 1.

Mr Saville submitted that the circumstances which make it fair to admit the evidence of Ms 9 are as follows:

1. It is not the sole or decisive evidence in relation to the charges;
2. The NMC has made reasonable efforts to secure Ms 9 attendance [PRIVATE]



3. The NMC contacted Mrs Harris, on 10 August 2022 via email, to give her notice of the hearsay application.

Mr Saville drew the panel's attention to the Summary of Meeting Held on 08 February 2019 within the hearsay evidence. This meeting involved Ms 9 and the Trust. He informed the panel that these notes describe in detail the disclosures made by Mrs Harris to Ms 9 about her relationship with Mr 1. [PRIVATE].

Mr Saville submitted that this is not "new evidence" before the panel. He reminded the panel that, in her evidence to the panel, Ms 6 said that [PRIVATE]. Ms 6 also described conversations in which Mrs Harris said that she was using a fake Facebook account to send messages to Ms 1 and that she was following Mr 1's activities on Instagram. Mr Saville also reminded the panel that Ms 8 had provided the panel with similar evidence. In these circumstances, Mr Saville submitted that Ms 9's statement, if admitted, would not be sole and decisive.

Mr Saville submitted that Ms 9's account includes general observations common throughout the other witness evidence in this case. He submitted that consistent across the evidence were references to direct contact between Mrs Harris and Mr 1 and a marked shift in Mrs Harris's behaviour in the workplace from September 2018. He submitted that this was supported by the evidence of Ms 5, Ms 7 and Ms 8

Mr Saville submitted that admitting the hearsay evidence of Ms 9 strengthens the NMC's case against Mrs Harris. He submitted, however, that it does not fundamentally change the panel's understanding of the case.

Mr Saville submitted that the evidence contains established themes such as the contact between Mrs Harris and Mr 1 which was seen as a motive for altering interview scores and accessing personal data.

Mr Saville referred the panel to the case of *Thorneycroft v Nursing and Midwifery Council [2014] EWHC 1565 (Admin)* and Rule 31 of the Rules which relates to the need for fairness when admitting evidence when the witness has not been called.

[PRIVATE]

[PRIVATE]

Mr Saville submitted that the NMC has offered Ms 9 support through its Witness Liaison service on 4 and 5 August 2022. However, he submitted that despite phone calls to Ms 9 on 8 and 9 August 2022, she has not been in contact with the NMC.

Mr Saville referred the panel to the case of *NMC v Ogbonna (2010) EWCA Civ 126* and submitted that this application is made as a last resort. [PRIVATE]

With regards to Ms 9's evidence being the sole and decisive evidence in relation to any of the charges, Mr Saville submitted that it does not stand independently in this instance. He submitted that it supports the evidence of other witnesses who worked on the ward. He submitted that the evidence may be regarded as demonstrably reliable evidence and can be fairly compared with the accounts the panel has heard.

Mr Saville directed the panel to an email sent to Mrs Harris from the NMC, dated 10 August 2022 giving her a right of challenge in relation to the admission of hearsay evidence from this witness. He submitted that the NMC has not received a response. As a result, Mr Saville submitted that there has been an attempt to mitigate any prejudice against Mrs Harris.

Mr Saville invited the panel to admit the hearsay evidence of Ms 9.

The panel accepted the legal assessor's advice on the law it should take into consideration in respect of this application, which included reference to *Thorneycroft v*

*NMC, NMC v Ogbonna (2010) EWCA Civ 126 and R (Bonhoeffer) v GMC [2011] EWHC 1585 (Admin)*. Rule 31 provides that, so far as it is 'fair and relevant', a panel may accept evidence in a range of forms and circumstances, whether or not it is admissible in civil proceedings. *Thorneycroft v NMC* provides the following factors to be taken into account:

- (i) whether the statements were the sole or decisive evidence in support of the charges;*
- (ii) the nature and extent of the challenge to the contents of the statements;*
- (iii) whether there was any suggestion that the witnesses had reasons to fabricate their allegations;*
- (iv) the seriousness of the charge, taking into account the impact which adverse findings might have on the Appellant's career;*
- (v) whether there was a good reason for the non-attendance of the witnesses;*
- (vi) whether the Respondent had taken reasonable steps to secure their attendance; and*
- (vii) the fact that the Appellant did not have prior notice that the witness statements were to be read.*

The panel determined that the evidence of Ms 9 was clearly relevant. The panel then considered the issues of fairness and had regard to the factors outlined in *Thorneycroft v NMC*.

The panel was of the view that the evidence of Ms 9 was not the sole and decisive evidence in relation to any of the charges as there may be other evidence from witnesses which is capable of supporting Ms 9's statement.

Regarding the nature and extent of the challenge, the panel noted that Mrs Harris does not dispute that she knew Mr 1 which is what Ms 9 states in her statement. However, Mrs Harris does appear to dispute the nature and extent of her relationship with Mr 1. Further, Mrs Harris disputes having contact with Ms 1 and pointing to Ms 1 as being [PRIVATE].

The panel noted that a common phrase used by Ms 9 in her evidence is “I am aware” and that only some of her comments about Mrs Harris’s situation were based on her interactions with Mrs Harris. It is clear that some of the information she offered came from other sources. The panel was of the view that it could readily differentiate between what Ms 9 alleges Mrs Harris told her directly and what she had been told about Mrs Harris by others. The panel had no direct evidence before it to suggest that Ms 9 has fabricated any of the content of her statement. However, the panel notes that Ms 9’s statement does contain some hearsay evidence which it will exclude when considering what weight to give to her admitted statement.

The panel noted that Ms 9’s evidence goes to charges 1, 4, 5 and 6, which if found proved, form the basis of charges of lack of integrity, and with regards to charge 1, dishonesty. Therefore, the panel noted that the charges are serious. [PRIVATE]

The panel noted that Mrs Harris had only been informed of the NMC’s intention to admit Ms 9’s evidence on 10 August 2022 which was yesterday. It was not satisfied that this was sufficient notice. However, it took account of Mrs Harris’ history of non-engagement with the NMC. It bore in mind that Mrs Harris had voluntarily absented herself from today’s hearing and saw no information before it to suggest that giving Mrs Harris more time would guarantee that she would respond to the NMC’s application.

In these circumstances, the panel came to the view that it would be fair and relevant to accept into evidence the hearsay evidence of Ms 9. It determined that no unfairness or prejudice would be caused by admitting this evidence.

The panel notes that this admitted statement will not be directly tested by any cross-examination. However, the panel may ask questions of any NMC witnesses in relation to their evidence in the context of Ms 9’s statement and thereafter ascribe what weight it thinks fits to Ms 9’s statement.

## Decision and reasons on application to admit hearsay evidence of Ms 10

The panel heard an application made by Mr Saville under Rule 31 of the Rules to allow the statement of Ms 10 into evidence. Ms 10 was not present at this hearing. Mr Saville submitted that she is currently in the Philippines on holiday and has restricted access to the internet. He submitted that her evidence is in relation to the access of the patient records (charges 4, 5 and 6) and she also provides information on how she knows Ms 1 and Ms 2.

Mr Saville referred the panel to an email sent in by Ms 10 on 12 August 2022 stating:

*“I would like to help you with Harris case unfortunately my distance, Internet access and electric power cut offs have imposed me problems to connect with you. [sic]*

*I hope you will understand my situation. Thank you very much for your kind consideration.”*

Mr Saville referred the panel to the case of *Thorneycroft* and Rule 31 of the Rules which relates to the need for relevance and fairness when admitting evidence when the witness has not been called.

With regards to Ms 10's evidence being the sole and decisive evidence in relation to any of the charges, Mr Saville submitted that it does not stand independently in this instance. He submitted that it supports the evidence of other witnesses who worked on the ward. He submitted that the evidence may be regarded as demonstrably reliable evidence and can be 'fairly compared with the accounts the panel has heard.'

Mr Saville directed the panel to an email sent to Mrs Harris from the NMC, dated 12 August 2022 given a right of challenge in relation to the admission of hearsay evidence from this witness. He submitted that Mrs Harris responded to this email on the same day

and stated that she was content for Ms 10's statement to be read. As a result, Mr Saville submitted that there has been a fair attempt to mitigate any prejudice against Mrs Harris.

Mr Saville invited the panel to admit the statement of Ms 10 as hearsay evidence.

The panel accepted the legal assessor's advice on the law it should take into consideration in respect of this application, which included reference to *Thorneycroft v NMC*, *NMC v Ogbonna (2010) EWCA Civ 126* and *R (Bonhoeffer) v GMC [2011] EWHC 1585 (Admin)*. Rule 31 provides that, so far as it is 'fair and relevant', a panel may accept evidence in a range of forms and circumstances, whether or not it is admissible in civil proceedings. *Thorneycroft v NMC* provides the following factors to be taken into account:

- (i) whether the statements were the sole or decisive evidence in support of the charges;*
- (ii) the nature and extent of the challenge to the contents of the statements;*
- (iii) whether there was any suggestion that the witnesses had reasons to fabricate their allegations;*
- (iv) the seriousness of the charge, taking into account the impact which adverse findings might have on the Appellant's career;*
- (v) whether there was a good reason for the non-attendance of the witnesses;*
- (vi) whether the Respondent had taken reasonable steps to secure their attendance; and*
- (vii) the fact that the Appellant did not have prior notice that the witness statements were to be read.*

The panel determined that the evidence of Ms 10 was clearly relevant. The panel then considered the issues of fairness and had regard to the factors outlined in *Thorneycroft v NMC*.

The panel decided that the statement of Ms 10 was not the sole and decisive evidence on whom had accessed the medical records. Mrs Harris does not object to the statement being read therefore there does not appear to be any challenge to the contents of the statement or any suggestion that it has been fabricated. This evidence does relate to serious charges 4-7 which includes a lack of integrity charge. Ms 10 is currently on holiday where she is experiencing internet and power problems. She has tried to make repeated efforts to attend and the NMC has made reasonable efforts to facilitate her attendance.

In these circumstances, the panel came to the view that it would be fair and relevant to accept into evidence the hearsay evidence of Ms 10. It determined that no unfairness or prejudice would be caused by admitting this evidence.

## **Background**

The charges arose whilst Mrs Harris was employed as a registered nurse by East Suffolk and North Essex NHS Foundation Trust (the Trust). It is alleged that Mrs Harris on the 14 January 2019 failed to follow the Trust Recruitment Policy by altering scores for interviews that she did not conduct. It is alleged that Mrs Harris's actions showed a lack of integrity in that she allegedly used her position to manipulate the outcome of the interview scores for the benefit of Ms 1. Further it is alleged that Mrs Harris was dishonest in that she deliberately altered the interview scores to represent an outcome that she knew was not true.

It is alleged that Mrs Harris accessed medical records for Ms 1 without any clinical justification on one or more occasions on 4 September 2019, on 18 September 2018 and on 14 December 2018. It is also alleged that Mrs Harris accessed medical records for Mr 1 without clinical justification on 14 December 2018 and on 4 January 2019. It is further alleged that Mrs Harris accessed medical records for Ms 2 without clinical justification on one or more occasions on 18 September 2018 and on 4 January 2019.

It is alleged that Mrs Harris failed to act with integrity in relation to allegedly accessing medical records of patients without clinical justification.

### **Decision and reasons on facts**

In reaching its decisions on the facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Saville, Mrs Harris's response to the NMC charges, documentation and her account given during the local investigation.

The panel has drawn no adverse inference from the non-attendance of Mrs Harris.

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:

- Ms 3: Senior Nurse who led the Trust's local investigation
- Ms 4: Matron at the Trust at the time of events and investigated the concerns regarding Mrs Harris
- Ms 5: Registered Nurse who worked in the Unit as Mrs Harris at the time of the events
- Ms 6: Deputy Sister at the time of the events, Mrs Harris was her line



manager and was also one of the interviewers.

- Ms 7: A Cardiac Catheter Laboratory Co-ordinator at the time of events.
- Ms 8: Registered Nurse in the Cardiac Catheter Laboratory at the time of the events and conducted one of the interviews.
- Ms 11: Staff Nurse at the Trust at the time of events and conducted the interviews.

The panel also took into account the hearsay evidence of the following witnesses:

- Mr 2: Head of Systems in the Directorate of Information and Communication Technology at the time of the events
- Ms 9: Trainee Associate Practitioner at the Trust at the time of events
- Ms 10: Registered Nurse in the Cardiac Catheter Laboratory at the time of the events

The panel when relying upon any of the hearsay evidence in deciding any charge tested the reliability of such evidence by reference to other witnesses and documentation and then ascribed such weight as it thought fit.

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

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

### **Charge 1**

1. On the 14 January 2019 failed to follow the Trust Recruitment Policy by altering scores for interviews that you did not conduct.

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

In reaching this decision, the panel took into account the Trust's Recruitment Policy which stated that Recruitment Managers are responsible for ensuring that interviews are conducted fairly and objectively and keeping written records of interviews. The panel determined that Mrs Harris as the recruiting manager was under a duty to follow this policy. The panel decided that the policy is clear, by implication, that it is only the interview panel that is responsible for the scoring of the interviews. The panel noted that there is no express power within the policy for those outside of the interview panel to alter scores.

The panel noted the meeting that took place on 28 January 2019 with Mrs Harris in which she stated:

*"I increased the scores of 3 candidates and decreased the score of 1 candidate."*

The panel noted the evidence of Ms 3 who interviewed Mrs Harris on two occasions during the local investigation. Ms 3 stated that Mrs Harris admitted to physically amending the scoring sheets. This is reflected in the clear amendments made to the scoring sheets.

The panel heard from witnesses who all confirmed that Mrs Harris had altered the scores of some of the candidates even though she was not on the interviewing panel for those candidates. Ms 5 explained that Mrs Harris had decided to re-score the candidates after the interviews, and she had assisted with this. Ms 5 said that she had challenged Mrs Harris on the re-scoring of the candidates pointing out that it was not Ms 1 who scored the highest. Mrs Harris replied:

*“I’d rather have Ms 1, she deserves a break”.*

Ms 6 said the following about Mrs Harris:

*“She didn’t hide the fact that she changed the paperwork. I was aware that all the team knew”.*

Ms 7 explained in her evidence that she was in the room when the re-scoring was taking place and heard Mrs Harris ‘definitely taking the lead’ in this exercise. Ms 11 who was one of the interviewers confirmed in her oral evidence that the scores of some of the candidates including Ms 1 had been altered.

The panel therefore found charge 1 proved.

## **Charge 2**

2. Your actions in charge 1 showed a lack of integrity in that you used your position to manipulate the outcome of the interview scores for the benefit of Ms 1.

**This charge is found proved.**

The panel gave careful regard to the judgement in *Wingate and Evans v Solicitors Regulation Authority: Solicitor Regulation Authority v Malins [2018] EWCA Civ 366* and the principles which a panel should consider when deciding any lack of integrity.

The panel took into account that Mrs Harris had involved herself in the re-scoring of some candidates which included Ms 1 who she personally knew. The panel noted that as an experienced nurse she should have been aware of the Trust's policy in appointing interviewers. It noted that as well as failing to declare a conflict of interest in relation to Ms 1, she also chose junior members of staff who did not have the requisite training to conduct interviews and were given inadequate preparation time.

The panel noted that the following comments support the view that Mrs Harris strayed from the interview assessment criteria in relation to Ms 1 and increased her score on the basis of observations about Ms 1's personal circumstances that were not relevant to the role.

Ms 6 in her local investigation statement dated 1 February 2019 explained that Mrs Harris stated that:

*"[PRIVATE]."*

Ms 5 in her local investigation statement dated 1 February 2019 stated:

*"I said to [Mrs Harris] it wasn't Ms 1 who scored the high. [Mrs Harris] said "I'd rather have Ms 1, she deserves a break"."*

Mrs Harris in her local investigation meeting dated 28 January 2019 stated:

*"I told [Ms 5] that I had appointed Ms 1 and she said "you're fucking joking". I said "I thought it would be nice to give someone a chance to be an HCA"."*

In her oral evidence Ms 11 stated that she was asked by Mrs Harris to have a private chat about her interview scoring so that '[Ms 5] would not sway [her] judgement.' Ms 11 told the panel that she had informed Mrs Harris that Ms 1 had not interviewed well and would not

change her mind about who scored highest. Despite this Mrs Harris decided to rescore the interviews contrary to Trust policy.

The panel in its professional view decided that as Mrs Harris was a Band 7 nurse with around 30 years' experience in the nursing profession, including experience of recruitment, she would have understood that the purpose of the recruitment policy goes far beyond helping the Trust to get the right person for the job. Any NHS appointment process must adhere to the principles of independence, objectivity, fairness and transparency so that there is public and, if necessary, legal accountability. Integrity connotes adherence to the standards of a registered nurse and those standards should be reflected in a fair appointment process.

By altering the interview scores, Mrs Harris materially contravened the Trust recruitment policy and interfered with the appointment process. In doing so she would have made it difficult for the Trust to have checked whether it had met its legal duties with respect to the interviews.

The panel determined that Mrs Harris's actions in charge 1 lacked integrity as she had used her senior position and authority throughout the interview process so she could manipulate the interview scores and then take the final decision to hire Ms 1.

Therefore the panel found this proved.

### **Charge 3**

3. Your actions in charge 1 were dishonest in that you deliberately altered the interview scores to represent an outcome that you knew was not true.

**This charge is found proved.**

The panel applied the two-stage test as established by the case of *Ivey v Genting Casinos Ltd t/a Crockfords* [2017] UKSC 67.

The panel firstly ascertained the actual state of Mrs Harris's knowledge and belief as to the facts at the time of this incident.

The panel noted that Mrs Harris was provided with the score sheets of the candidates by the interviewers she had appointed and was clearly told that Ms 1 was not the best candidate for the role.

The panel noted that as Mrs Harris did not conduct the interviews, she should not have been involved in re-scoring candidates or made any final decisions on who to appoint. The panel also noted that Mrs Harris had admitted to giving the role to Ms 1 despite being told she was not the best candidate. Despite this information coming from two independent interviewers Mrs Harris nonetheless went on to deliberately alter the scores and therefore represented an outcome that she knew not to be true.

The panel determined that Mrs Harris was aware that Ms 1 had not interviewed as the best candidate on the day. Ms 5 and Ms 11 had informed Mrs Harris that Ms 1 was 'un-appointable' and had scored joint fourth in the interviews they had conducted. Mrs Harris then conducted a scoring exercise that did not represent that outcome by giving Ms 1 a score of 13.5 in the interview which put Ms 1 in first position. Mrs Harris represented to HR that she was the lead interviewer and that the scores that she had altered were the results of the interviews even though she knew this not to be true.

The panel then moved on to the second stage of the dishonesty test in *Ivey*. The panel considered whether Mrs Harris was dishonest by applying the objective standards of ordinary decent people. The panel decided that an ordinary decent person would find that Mrs Harris's actions were dishonest.

The panel determined that Mrs Harris's actions were dishonest in that she deliberately altered the interview scores to represent an outcome that she knew was not true.

The panel therefore found this charge proved.

#### **Charge 4**

4. Accessed medical records for Ms 1 without any clinical justification;
  - (a) On one or more occasions on the 4 September 2019.
  - (b) On the 18 September 2018.
  - (c) On the 14 December 2018.

**This charge is found NOT proved in its entirety.**

In relation to charges 4 a, b and c the panel decided that the medical records were accessed by Mrs Harris's account. This was not in dispute. The issue for the panel was who accessed the material.

The panel took account of Mr 2's hearsay evidence in which he explained that the computers would lock if they were left unused for an amount of time and would require a staff member to log back in. Ms 6 in her oral evidence said that at the time of the events the computer did not have a time out element in place and this change in the system took place not long after the events that led to the charges. The panel noted that Ms 6 maintained her position when questioned in her oral evidence and the panel decided that it preferred her account and therefore did not place weight on Mr 2's statement in relation to this aspect.

However, Mr 2 also stated the following:

*"I do know that in some departments it is common for a staff member to log into a computer and then the PAS system with their account information and to leave it*

*logged in all day and for other staff members to use this staff member's account. This is completely against Trust policy and all staff have been told to lock their account if they step away from the computer. I do not know if the area Ms Harris worked in had a tendency to leave their accounts logged in when not using the computer."*

Furthermore, he was unable to say with any 'reasonable certainty' whether Mrs Harris was the one who viewed the medical records due to the lack of adherence to trust policy. There is evidence from several members of Mrs Harris's team who said that they and others often worked from one person's log-in details on their shifts. They said that this was common practice within the team at the time. For example, in her oral evidence Ms 6 stated that the lead nurse for the day would log into the PAS system at the nurses' station with their account information and to leave it logged in all day for other staff members to use this staff member's account to look at the medical records. Ms 3 confirmed in her statement that this appeared to be common practice on the ward at the time of the data breaches. Furthermore, as part of the Trust investigation into the alleged data breaches, Mrs Harris said that she would log on in the morning and leave her account open but minimised on the screen.

The panel was told by several witnesses that the main computer that staff in the unit used for checking patient records was on a nursing station in an open plan area within the unit. Ms 6 said in her oral evidence that the door leading into the unit was not locked during the day and that there was not a secure entry system in place. Witnesses described a situation in which people could come and go freely from the unit, especially when it was 'running a list'. In addition, despite the e-roster stating who was working that day it could not say who was still on the ward once the shift had ended or at any given time that day. Therefore, despite it being suggested that Mrs Harris had a motive to access this information, given the weaknesses in the evidence, on the balance of probabilities the panel could not say who accessed Ms 1's medical records.

Therefore the panel did not find this charge proved.



## **Charge 5**

5. Accessed medical records for Mr 1 without clinical justification;
  - (a) On the 14 December 2018.
  - (b) On the 4 January 2019.

### **This charge is found NOT proved in its entirety.**

In relation to charge 5 (a) the panel found it not proved for the reasons provided for charge 4.

In relation to charge 5 (b) the panel noted Ms 8's oral evidence was not consistent with her comments recorded within her 'right to reply' meeting with Ms 4 on 20 May 2019. She explained in her oral evidence that she had a clear memory of Mrs Harris being at the computer possibly 'discharging patients' but could not recall where she had performed tasks such as whether she had washed cups on the unit or in the endoscopy unit or whether Mrs Harris had helped with these tasks. She told the panel that she could remember this day because there was a blue light emergency and this was a rare occurrence.

However, in her investigation meeting on 20 May 2019 she stated that she did not remember the blue light incident nor could she 'remember the shift specifically or anything about it'. Within this meeting Ms 8 outlined what she would normally have been doing at the end of a day shift, but was not able to recall what she was doing on that day with any specificity. The panel were therefore unable to place any reliance on Ms 8's evidence due to inconsistencies.

The panel noted that the account that accessed the medical records was that of Ms 6. Ms 6 stated that she was had left work at the time of the data access. She said that she was able to say this with certainty because there had been a blue light emergency after she

had left for the evening and that an audit report showed that that this had taken place at 18.40. However, the panel noted that several times were given for the time of the 'blue light emergency', namely just after 18.00, 18.15, 18.20 and 18.40. Therefore, it was unclear what time this emergency took place.

The e-roster showed that there were only two members of staff on duty after 18.00 on 4 January 2019 (Mrs Harris and Ms 8). However, the panel was not offered any evidence to show the times at which the other staff members left the unit and the Trust premises. This raises the possibility that some of them remained in the unit for a time after their shifts ended. The panel noted that, in her statement to the local investigation, Mrs Harris said:

*"[Ms 4]- On the 4th Jan eroster shows that you were on shift until 19:30, with one other staff member only, can you remember who else was there with you? If it helps to trigger your memory, I understand that there was a blue light transfer that occurred around 18:15?"*

*[Mrs Harris] – it was so long ago I can't remember a blue light or who was working. But if there was a blue light then I wouldn't have let the other staff leave and would have requested they stay behind to help.*

*[Ms 4] – Would that not have then been updated on the eroster?"*

*[Mrs Harris] – no. if staff stay behind to help then on other occasions I would let them leave early. So any of them may have still been there."*

Therefore, the panel determined that given the account that was used to access the medical record was Mrs 6's account, the inconsistent account provided by Ms 8 and the inherent weaknesses in the evidence (in addition to those noted in the panels reasoning for charge 4), on the balance of probabilities this charge is found not proved.

## **Charge 6**

6. Accessed medical records relating to Ms 2 without clinical justification;
  - (a) On one or more occasions on the 18 September 2018.
  - (b) On the 4 January 2019.

**This charge is found NOT proved in its entirety.**

In relation to charge 6 (a) the panel found it not proved for the reasons provided for charge 4.

In relation to charge 6 (b) the panel found it not proved for the reasons provided for charge 5 (b).

### **Charge 7**

7. Failed to act with integrity in relation to charges 4 and/or 5 and/or 6 because you knew that you did not have any clinical justification to access the medical records but did so in any event.

**This charge is found NOT proved.**

The panel noted that charges 4, 5 and 6 have been found not proved so therefore charge 7 is also not 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 Mrs Harris'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.

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. If the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Mrs Harris's fitness to practise is currently impaired as a result of that misconduct.

### **Submissions on misconduct**

Mr Saville drew the panel's attention 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 Saville invited the panel to take the view that the facts found proved amount to misconduct. He submitted that the panel should have regard to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015' (the Code) and the NMC guidance on seriousness and dishonesty in making its decision.

Mr Saville took the panel to various passages in the Code and submitted that the facts found proved in charges 1, 2 and 3 are breaches of the Code and therefore amounted to misconduct. He submitted that misconduct should not be viewed any less than serious professional misconduct. Mr Saville took the panel to the case of *Nandi v GMC [2004] EWHC 2317 (Admin)* and submitted that serious professional misconduct is 'conduct which would be regarded as deplorable by fellow practitioners.' Mr Saville submitted that Mrs Harris's actions did fall significantly short of the standards expected of a registered nurse.

## Submissions on impairment

Mr Saville 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 Saville submitted that limbs b, c and d are engaged in the *Grant* test.

Mr Saville submitted that Mrs Harris crossed professional boundaries by imposing her personal agenda. Mr Saville stated that this was an abuse of process by Mrs Harris which had ‘real world consequences’ for others such as the other interviewees and the Trust. He submitted that this is typified in the erosion of the trust of Mrs Harris’s colleagues, who saw their manager taking steps contrary to professional standards in addition to the Trust guidance and Trust culture.

Mr Saville submitted that Mrs Harris breached fundamental tenets of the nursing profession namely honesty and integrity. Mr Saville submitted that Mrs Harris has not provided any evidence of insight or remediation into her failings. He submitted that the extent of her remorse was that in the first interview with Ms 3 when she said:

*“I would do it differently next time and get advice from HR”.*

Mr Saville submitted that this showed that Mrs Harris still maintained her denial that she altered scores for Ms 1’s benefit. Mr Saville explained that Mrs Harris’s fitness to practice is currently impaired on the ground of public interest alone.

The panel accepted the advice of the legal assessor.

## **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 Mrs Harris's actions did fall significantly short of the standards expected of a registered nurse, and that Mrs Harris's actions amounted to a breach of the Code. Specifically:

### **8 Work co-operatively**

**8.1** respect the skills, expertise and contributions of your colleagues, referring matters to them when appropriate

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

This applies to the records that are relevant to your scope of practice. It includes but is not limited to patient records.

**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

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

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

**20.1** keep to and uphold the standards and values set out in the Code

**20.2** act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment

**20.3** be aware at all times of how your behaviour can affect and influence the behaviour of other people

**20.8** act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to

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 Mrs Harris's had used her senior position and authority throughout the interview process so she could manipulate the interview scores with the aim of appointing Ms 1. It noted that she also had not adhered to clear Trust guidance and that her actions lacked integrity and were dishonest. The panel decided that Mrs Harris's actions fell seriously short of the conduct and standards expected of a nurse and amounts to misconduct.

### **Decision and reasons on impairment**

The panel next went on to decide if, as a result of the misconduct, Mrs Harris'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. 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 Mrs Harris put the public at risk by appointing an individual who was clearly unsuitable for the HCA role which required clinical skill and judgement.



Without the intervention of the whistle blower, this person could have been left to treat patients which, if they did not have the clinical skills to do so, could have put patients at risk of harm. It was also of the view that Mrs Harris's failure to follow clear instructions about the recruitment process and her willingness to disregard a Trust policy created a manifest risk of harm to the public. It noted that she has not acknowledged either of these failings. Furthermore, the panel determined that Mrs Harris's colleagues and the candidates that applied for the HCA role were put at risk of emotional harm. Therefore, the panel determined that Mrs Harris had in the past acted in a way that put patients at unwarranted risk of harm.

The panel decided that Mrs Harris's actions brought the profession into disrepute in the past by not only putting patients at risk but acting in a manner that lacked integrity and honesty.

The panel determined that integrity and honesty are fundamental tenets of the nursing profession. Therefore, Mrs Harris's action breached the fundamental tenets of the nursing profession in the past.

Given that the panel found at the facts stage that Mrs Harris acted dishonestly then the fourth limb of the Shipman test is satisfied in the past.

The panel having decided that all four limbs in the Shipman test are engaged as to the past then went on to consider whether any of the limbs are engaged in respect of the future. In this regard, the panel asked itself three questions. Firstly, whether Mrs Harris's conduct is easily remediable; secondly, whether she has remediated her misconduct; thirdly, whether she is highly unlikely to repeat her misconduct. The panel carefully considered the evidence including Mrs Harris's response bundle.

The panel decided in respect of the first question that whilst Mrs Harris's misconduct includes dishonesty her actions are nevertheless remediable.

The panel noted that Mrs Harris has not provided any evidence of remorse, strengthening of her practice or insight into her failings. It noted that she had manipulated the interviewing process to hire Ms 1 who according to other colleagues did not have the appropriate experience for the role and therefore put patients at potential risk of harm. The panel noted that there is a high risk of repetition based on Mrs Harris's lack of understanding of the wrongfulness of her actions and the lack of evidence of efforts to strengthen her practice. It noted that when she found out about being investigated for her actions her initial reaction was to try to find the 'backstabber' who had reported her.

Therefore, the panel was of the view that all four limbs of the Shipman test, remain engaged with respect to future conduct.

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

The panel bore in mind 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 determined that a finding of impairment on public interest grounds is required because a member of the public would be shocked to know that a nurse who had acted dishonestly and with a lack of integrity was able to practice without restrictions. 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 Mrs Harris's fitness to practise impaired on the grounds of public interest.

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

## **Sanction**

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

In reaching this decision, the panel has had careful regard to all the evidence that has been adduced in this case, as well as the Sanctions Guidance (SG) and guidance on seriousness both published by the NMC.

## **Submissions on sanction**

Mr Saville referred to aggravating and mitigating features that the panel could consider. Mr Saville submitted that the NMC sanction bid which was communicated to Mrs Harris on the Notice of Hearing letter dated 28 June 2022 is a striking-off order. He submitted that a lesser sanction would not be appropriate in this case.

Mr Saville submitted that removal from the register is not only an appropriate and proportionate step but is also the only sanction which would sufficiently protect the public and address the public interest.

The panel accepted the advice of the legal assessor.

## **Decision and reasons on sanction**

Having found Mrs Harris'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:

- Mrs Harris abused her position of trust.
- Mrs Harris abused her position of power over junior colleagues.
- Mrs Harris's lack of insight into her failings.
- Mrs Harris has not shown any evidence of remorse or strengthening of her practice.
- Mrs Harris's actions were calculated and premeditated.
- Mrs Harris put patients at risk of potential harm.
- Mrs Harris's actions once the allegations came to light.

The panel also took into account the following mitigating features:

- Mrs Harris's previous good character.

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 Mrs Harris'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 decided that Mrs Harris'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 determined that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mrs Harris's registration would be a sufficient and appropriate response. The panel is of the view that

there are no relevant, proportionate, workable or measurable conditions that could be formulated, given the nature of the charges in this case. The misconduct identified in this case is not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Mrs Harris'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 panel considered the SG and where it might be appropriate to impose a suspension order. The panel is of the view that there is evidence of a harmful, deep seated personality or attitudinal problem. For example, she made it clear to members of staff in the unit that she wanted to find out who the whistle blower was, referring to this individual as a 'backstabber'. Her focus appeared to be on recriminations and not on her unacceptable conduct or the consequences of that conduct for those involved. Mrs Harris abused her position of power and trust, whilst making calculated and premeditated actions. Therefore, the panel determined that Mrs Harris's dishonesty fell towards the upper end of seriousness. Furthermore, there was no evidence before the panel to show that Mrs Harris had any insight into her misconduct and that she does not pose a significant risk of repeating similar behaviour and dishonesty. The panel noted the lack of evidence from Mrs Harris that she is willing to engage with the NMC and would want to return to nursing practice. It noted that she has previously told the NMC that she has retired from nursing and did not want to be involved in this hearing.

In this particular case, the panel in weighing up the above, 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?*

The panel noted that Mrs Harris's misconduct was a significant departure from the standards expected of a registered nurse. It noted that the serious breaches of the fundamental tenets of the profession is entirely incompatible with her remaining on the register. The panel was of the view that the findings in this particular case, namely the lack of integrity and dishonesty, demonstrate that Mrs Harris's misconduct was so serious that a striking-off order is appropriate and proportionate so as to protect the public and satisfy the wider public interest.

Balancing all of these factors and 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 effect of Mrs Harris'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 is 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 Mrs Harris 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 Mrs Harris's own interest until the striking-off sanction takes effect.

### **Submissions on interim order**

Mr Saville submitted that an 18-month interim suspension order is necessary in this case. Mr Saville submitted that this would be in line with the findings made by the panel both on public protection and public interest grounds.

The panel accepted the advice of the legal assessor.

### **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.

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

That concludes this determination.