

Nursing and Midwifery Council Fitness to Practise Committee

**Substantive Meeting
13 - 14 July 2022**

Virtual Meeting

Name of registrant: Trevor Vernon Green

NMC PIN: 7516242E

Part(s) of the register: Nursing Sub Part 1
RN5, Learning Disabilities Nurse (1 August 1978)

Relevant Location: Wrexham

Type of case: Findings of another Health or Social Care
Regulator

Panel members: John Penhale (Chair, Lay member)
Linda Pascall (Registrant member)
Rachel Barber (Lay member)

Legal Assessor: Paul Hester

Hearings Coordinator: Tyrena Agyemang

Facts proved: Charge 1

Fitness to practise: Impaired

Sanction: **Striking-off order**

Interim order: **Interim suspension order (18 months)**

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that Mr Green was not in attendance and that the Notice of Meeting had been sent to Mr Green on 7 June 2022.

The panel noted that within the proof of service bundle there is a screenshot of Mr Green's details of contact from the NMC register. The details of contact include an email address which clearly relates to his employment with Summit Care Services who dismissed him from their employment in November 2017. This screenshot does not appear within the proof of service statement provided by the NMC seeking to prove good service.

The panel carefully considered the statement of the NMC. The statement does not rely upon the above screenshot but produces information held by the NMC showing the registrant's email address. This email address is different to that appearing on the above screenshot and is entitled "New" and relates to Mr Green. The NMC statement goes on to say that an email and notice of meeting was sent to the new email address on 7 June 2022.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, the time, dates and venue of the meeting.

The panel noted Rule 34(1)(c) of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules) which provides that good service can be effected by sending a notice by electronic mail to an electronic mail address that the registrant has notified to the Council as an address for communications. The panel noted that the information provided by the NMC as to Mr Green's email address was entitled "New". In these circumstances, the panel decided that there has been good service of the notice of this meeting to the new email address. In any event, the panel noted from the meeting bundle that Mr Green has replied to the NMC allegation on 1 December 2021 by using the new email address.

In the light of all of the information available, the panel was satisfied, that Mr Green has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34.

Details of charge

That you, registered nurse

1. On 3 December 2019, received a determination of impaired fitness to practise and were made subject to a Removal Order and Immediate Order by Social Care Wales.

AND in light of the above, your fitness to practise is impaired by reason of the findings of another body responsible for the regulation of a social care profession.

The panel noted that Mr Green has not formally responded to the charge but has stated that he "*maintains his innocence*".

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.

Background

The NMC charge relates to charges made against Mr Green by Social Care Wales (SCW) whilst Mr Green was employed as a Registered Manager of Summit Care Services Limited Care Home (the Home).

The Home was a six-bed residential home for young adults with mental health issues.

In 2017, the Care and Social Services Inspectorate for Wales (the Inspectorate) carried out a number of inspections at the Home. The Inspectorate identified a number of concerns about the sufficiency of the records kept at the Home. Specifically, there was a lack of up to date care plans and those that were available had not been reviewed regularly. Concerns were also raised about a lack of consultation with staff and residents about general care and accommodation issues.

A local investigation was initiated, and Mr Green was suspended from his duties. At a disciplinary hearing, held on 21 and 28 November 2017, Mr Green was dismissed from his position as manager.

Following Mr Green's dismissal by his employer, he was referred to SCW. At a hearing held by a Fitness to Practice Hearing of the SCW on 2 and 3 December 2019, Mr Green's fitness to practise was found to be impaired on the grounds of serious misconduct. The SCW hearing concluded that Mr Green:

- did not make suitable arrangements to prevent infection
- did not ensure the assessment of residents' needs was kept under review
- did not ensure that care plans were in place and/or reviewed and revised
- did not ensure that residents were involved in planning and reviewing their own care
- did not keep records relating to individuals who were previously residents at the Home
- did not make arrangements to obtain staff views on the conduct of the Home
- did not give notices of death, illnesses or other events
- did not manage the Home with sufficient care/competence and/or skill
- did not provide staff with an appropriate and/or safe means of cutting ligatures, which placed residents at risk of harm
- created and/or placed false references in personnel files which was dishonest of Mr Green and calls into question his integrity.

The SCW panel determined that the appropriate sanction in light of the above findings was a removal order and an immediate order.

Decision and reasons on facts

In reaching its decisions on the disputed facts, the panel took into account the submissions made by the NMC in its written Statement of Case, the determination by SCW on 3 December 2019 and Mr Green's email response dated 1 December 2021 to the NMC together with medical information.

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 accepted the advice of the legal assessor.

The panel then considered the charge and made the following findings.

Charge 1

1. On 3 December 2019, received a determination of impaired fitness to practise and were made subject to a Removal Order and Immediate Order by Social Care Wales.

This charge is found proved.

In reaching this decision, the panel carefully read the determination made by SCW on 3 December 2019. The panel noted the following passages within the SCW which relate to the elements of impairment and sanction within the NMC charge:

"We find that Mr Green's fitness to practise is currently impaired on the ground of Serious Misconduct."

and

"We impose a Removal Order and an Immediate Order"

Accordingly, the panel decided that the elements of charge 1 are proved on the balance of probabilities.

Fitness to practise

Whilst the panel acknowledge that a practitioner's fitness to practise shall be regarded as impaired by a determination by a body in the United Kingdom responsible for the regulation of a health or social care profession to the effect that their fitness to practise as a member of that profession is impaired. The panel noted that it was invited in the NMC's representations to consider 'The Code: Professional standards of practice and behaviour for nurses 2015' ("the Code").

Therefore, having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved in charge 1 amount to misconduct and, if so, whether Mr Green'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, 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 Green's fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct and impairment

The NMC submitted in its Statement of Case the following:

Impairment needs to be considered as of today's date, i.e. whether Mr Green's fitness to practice is currently impaired as a result of findings of another body responsible for the regulation of a social care profession. The NMC defines impairment as a registered professional's suitability to remain on the register without restriction. There is no burden or standard of proof to apply as this is a matter for the fitness to practice panel's own professional judgement.

The NMC's Fitness to Practise guidance (PRE-2g) may provide some assistance when seeking to define impairment by reason of the findings of another body responsible for the regulation of a social care profession:

"In some cases the allegation will be about the decision of another organisation responsible for the regulation of a health or social care profession in the UK (or a licensing body elsewhere), to the effect that the nurse, midwife or nursing associate's fitness to practise is impaired.

For example if the nurse, midwife or nursing associate is also registered to practice in another country and as a result of a fitness to practise investigation in that country, they were issued conditions on their practice.

When this happens, we won't usually need to describe the circumstances that led the other organisation to decide that the nurse, midwife or nursing associate's fitness to practise was impaired."

Where the acts or omissions of a registered professional are in question, what would be proper in the circumstances (per Roylance [Roylance v GMC (No. 2) [2000] 1 AC 311]) can be determined by having reference to the NMC's Code of Conduct.

The NMC then made a submission as to numerous breaches of the Code (2015) and cited various paragraphs. The Statement of Case then continues as follows:

The determination by SCW summarises a range of findings about Mr Green's fitness to practise as the Registered Manager of the Home. The concerns are wide

ranging and include issues relating to the general care and safeguarding of residents, to record keeping issues and alleged dishonesty.

Mr Green's behavior and actions are a serious departure from standards expected of a registered professional. His behavior has the potential to impact upon patient care and undermine trust and confidence, and the reputation of the profession.

We consider the following questions from the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) can be answered in the affirmative both in respect of past conduct and future risk:

I. has [the Registrant] in the past acted and/or is liable in the future to act as so to put a patient or patients at unwarranted risk of harm; and/or

II. has [the Registrant] in the past brought and/or is liable in the future to bring the [nursing] profession into disrepute; and/or

III. has [the Registrant] in the past committed a breach of one of the fundamental tenets of the [nursing] profession and/or is liable to do so in the future

IV. has [the Registrant] in the past acted dishonestly and/or is liable to act dishonestly in the future.

Mr Green's actions engage limbs i, ii, iii and iv. Dealing with each one in turn:

i. Mr Green's actions placed patients at risk of harm as he did not take appropriate measures to prevent infection and ensure the resident's care plans were reviewed in a timely manner. Failing to do this places patient at serious risk of harm of not being provided with the most appropriate and up to date care.

ii. Mr Green's actions placed patients at risk of harm and he failed to conduct his duties as a manager. This is liable to bring the profession into disrepute.

iii. The nursing profession is a caring profession, to behave in such a way shows a lack of compassion and respect to colleagues is a breach of this most fundamental tenet.

iv. Mr Green placed false references in personnel files which is an act of dishonesty and calls into question Mr Green's integrity.

The panel should also consider the comments of Cox J in Grant at paragraph 101: "The Committee should therefore have asked themselves not only whether the Registrant continued to present a risk to members of the public, but whether the need to uphold proper professional standards and public confidence in the Registrant and in the profession would be undermined if a finding of impairment of fitness to practise were not made in the circumstances of this case".

Mr Green has clearly brought the profession into disrepute by the very nature of the conduct displayed. Registered professionals occupy a position of trust and must act and promote integrity at all times, which have been breached in this case. The public has the right to expect high standards of registered professionals.

With regard to future risk it may assist to consider the comments of Silber J in Cohen v General Medical Council [2008] EWHC 581 (Admin) namely (i) whether the concerns are easily remediable; (ii) whether they have in fact been remedied; and (iii) whether they are highly unlikely to be repeated.

We consider Mr Green has displayed limited insight.

[PRIVATE]

[PRIVATE]

We consider there is a continuing risk to the public due to Mr Green's lack of full insight and failure to demonstrate strengthened practice through work in a relevant area. We also consider that this is a public interest in a finding of improvement

being made in this case to declare and uphold proper standards of conduct and behavior.

The panel noted that Mr Green has made no specific response on misconduct and impairment save for stating that he is innocent.

The panel accepted the advice of the legal assessor who referred the panel to *Roylance, Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and *General Medical Council v Meadow* [2007] QB 462 (Admin), *Grant, Ronald Jack Cohen v General Medical Council* [2008] EWHC 581 (Admin), and the *Fifth Shipman Report*.

Decision and reasons on misconduct

In considering misconduct the panel fully acknowledge that there has been a determination as to impairment by a body in the United Kingdom responsible for the regulation of a health or social care profession, namely SCW. As stated above, this panel undertook this stage as invited to do so by the NMC submissions in its Statement of Case. The panel noted in the SCW determination that whilst a professional code was referred to, it was not referred to in detail nor was it the NMC's Code.

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

1 Treat people as individuals and uphold their dignity

To achieve this, you must:

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

1.5 respect and uphold people's human rights

6 Always practise in line with the best available evidence

To achieve this, you must:

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

8 Work cooperatively

To achieve this, you must:

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

8.2 maintain effective communication with colleagues

8.3 keep colleagues informed when you are sharing the care of individuals with other healthcare professionals and staff

8.5 work with colleagues to preserve the safety of those receiving care

16 Act without delay if you believe that there is a risk to patient safety or public protection

To achieve this, you must:

16.4 acknowledge and act on all concerns raised to you, investigating, escalating or dealing with those concerns where it is appropriate for you to do so

19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice

To achieve this, you must:

19.1 take measures to reduce as far as possible, the likelihood of mistakes, near misses, harm and the effect of harm if it takes place

19.2 take account of current evidence, knowledge and developments in reducing mistakes and the effect of them and the impact of human factors and system failures

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

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

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

20.2 act with honesty and integrity at all times, treating people fairly...

25 Provide leadership to make sure people's wellbeing is protected and to improve their experiences of the health and care system

To achieve this, you must:

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

25.2 support any staff you may be responsible for to follow the Code at all times. They must have the knowledge, skills and competence for safe practice; and understand how to raise any concerns linked to any circumstances where the Code has, or could be, broken.

The panel was mindful that not every instance of falling short from what would be proper in the circumstances, and not every breach of the Code, will be sufficiently serious that it could properly be described as misconduct. Accordingly, the panel had careful regard to the context and circumstances of the matters found proved in the SCW decision.

The panel in finding the above multiple breaches was concerned that they relate to wide ranging and fundamental aspects of nursing. The panel noted that the seriousness of Mr Green's actions and omissions were exacerbated by the fact that they were not isolated incidents and occurred over a protracted period. The panel was very concerned that some of these incidents involved vulnerable residents and had the potential to cause unwarranted harm to them and therefore to impact upon their families.

The panel in finding these breaches noted that Mr Green created and/or placed false references in personnel files which was dishonest and called into question his integrity. Honesty and integrity is the fundamental bedrock of the nursing profession.

The panel was in its professional view in no doubt that Mr Green's conduct was of the kind that other practitioners and the public would consider deplorable. Taking the SCW charges found proved together, this panel concluded that Mr Green's actions did fall seriously short of the conduct and standards expected of a registered nurse and amount to misconduct.

Decision and reasons on impairment

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

Nurses and registered professionals occupy a position of privilege and trust in society and are expected at all times to be professional. Residents 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/their fitness to practise is impaired in the sense that S/He/They:

- a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*

- b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*

- c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*

- d) has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

The panel noted that in finding charge 1 proved there is a finding of impairment as at 3 December 2019.

The panel carefully considered Mr Green's email dated 1 December 2021 and the medical information. In particular, the panel noted the short medical report from Dr 1, received by the NMC 1 February 2022 which sets out Mr Green's medical history to 10 February 2022. These medical records, in the panel's view, do not assist it in relation to the question of current impairment. Further, Mr Green has not provided any new and relevant information as to current fitness to practice since the SCW hearing.

Applying the Shipman Test the panel firstly looked to the past and decided that limbs one to four are engaged.

The Shipman Test is also forward looking and in this respect the panel was mindful to assess future risk. In this regard the panel considered whether the concerns are easily remediable; whether they have in fact been remedied; and whether they are highly unlikely to be repeated.

The panel noted that there are matters of dishonesty and integrity relating to Mr Green's practice as a registered nurse. Whilst not impossible to remediate dishonesty, it is always difficult to show full remediation. There is no information before this panel to show that any step has been made to address this fundamental and serious misconduct.

The panel looked at Mr Green's other failings and likewise could find no evidence of any remediation or strengthening of practice since the SCW findings.

The panel decided that in light of the absence of any new and relevant information since the SCW hearing, that there remains a high risk of repetition. The panel was particularly concerned that in the information before it that Mr Green has not shown any evidence of insight into his significant failings. On the extremely limited response from Mr Green, the panel found that his current insight is at best minimal. The panel found that Mr Green has provided no evidence of an ability to step back from the situation and consider it objectively or recognise where he went wrong. There is no evidence before this panel showing that he has accepted his role and responsibilities at the material time, nor has he appreciated what could and should have been done differently. Further, he has shown no understanding as to how he would act differently in the future so as to avoid reoccurrence of similar problems.

The panel decided that there is a high risk of repetition and therefore 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 concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case. The panel was satisfied that a fully informed reasonable member of the public aware of the charges in this case would lose confidence in the profession should a finding of impairment not be imposed. The panel therefore also finds Mr Green's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Mr Green'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 Mr Green off the register. The effect of this order is that the NMC register will show that Mr Green 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.

Representations on sanction

The panel noted that in the Notice of Meeting, dated 7 June 2022, the NMC had advised Mr Green that it would seek the imposition of a striking off order if it found Mr Green's fitness to practise currently impaired.

The NMC submitted in its Statement of Case the following:

We consider the following sanction is proportionate:

A striking-off order

With regards to our sanctions guidance the following aspects have led us to this conclusion:

The aggravating factors in this case include:

- Conduct which could put patients at the risk of suffering harm*
- Lack of insight demonstrated*
- The background facts allege dishonest behaviour and matters which could be described as attitudinal in nature which are more difficulty to remedy and may be incompatible with ongoing registration*

The mitigating factors in this case include:

- *[PRIVATE]*
- *Mr Green alleges he did not received support in carrying out his role*

Taking the least serious sanctions first, it is submitted that taking no action and a caution order would not be appropriate in this case. The NMC Sanctions Guidance states that taking no action will be rare at the sanction stage and this would not be suitable where the nurse presents a continuing risk to patients. In this case, the seriousness of the misconduct means that taking no action would not be appropriate. A caution order would also not be appropriate as this would not mark the seriousness and would be insufficient to maintain high standards within the profession or the trust the public place in the profession.

The NMC guidance (SAN-3c) says that a conditions of practice order is appropriate when the concerns can easily be remediated and when conditions can be put in place that will be sufficient to protect the public and address the areas of concerns to uphold public confidence. In this case, a conditions of practice order would not allow the public to remain protected, and would not be in the public interest.

Mr Green has shown limited insight into his actions and denied the allegations. Mr Green has stated that the accusation were “false” and “an attempt to get rid of an employee”. Furthermore he failed in his duties as a registered manager. This consisted of multiple failures over a significant period of time. According to the NMC guidance (SAN-d), a suspension order may be appropriate when the registered professional has shown insight and does not pose a significant risk of repeating the behaviour. However, as Mr Green has not shown any real insight into the concerns raised or reassurance that the behaviour will not be repeated, a suspension order would not be sufficient or protect the public.

Furthermore, the NMC’s guidance (SAN-3e) says that a striking-off order is appropriate when the registered professional lacks “probity, honesty or trustworthiness... and risk of harm to the public”. The charges in this case are serious and involve concerns relating to dishonesty.

In light of the lack of insight or acknowledgement into the seriousness of his behaviour, a striking-off order is most appropriate at this stage.

Decision and reasons on sanction

Having found Mr Green'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. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the Sanctions Guidance (SG). The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Conduct which could put residents at the risk of suffering harm
- Minimal insight
- His behaviour was dishonest

The panel also took into account the following mitigating features:

- [PRIVATE]
- Mr Green alleges he did not received support in carrying out his role in his letter dated 15 December 2015. [PRIVATE]

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 Green'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 Green'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 Green'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. The failures identified in this case were not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Mr Green's registration would not adequately address the seriousness of this case and would not adequately protect the public.

The panel then went on to consider whether a suspension order would be the appropriate sanction.

The panel noted the seriousness of Mr Green's failings. These failings were wide ranging and involved matters of dishonesty and lack of integrity. Further, the short comings occurred over a protracted period.

The panel went on to consider whether a period of suspension would be sufficient to protect patients and adequately address the wider public interest being the public confidence in nurses and the NMC in upholding standards.

The panel decided that whilst a period of suspension would protect the public, such an order would not, in Mr Green's case, adequately address the wider public interest. The panel in making its finding of impairment decided that Mr Green significantly fell short of the standards to be expected of a registered nurse. Whilst no actual harm was occasioned to a resident, there was potential and significant risk the residents in relation to several of the charges. Accordingly, the panel decided not to impose a suspension order.

The panel next considered the making of a striking off order.

The panel noted the following questions posited within the SG in relation to making considering striking off orders and whether the nurses misconduct is fundamentally incompatible with being a registered professional:

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

The regulatory concerns about Mr Green do, in the panel's professional view, raise fundamental questions about his professionalism. These concerns are wide ranging, serious and go to the core of being a registered professional. In this regard, the panel noted its decision that Mr Green has brought the nursing profession into disrepute by and firstly affecting the public's view of how a registered nurse must conduct their practice.

Given the wide ranging and serious nature of Mr Green's deficiencies, the panel concluded that given all the circumstances of his case, public confidence in nurses and the NMC as regulator can only be upheld by a striking off order. This will protect patients, members of the public and properly address the wider public interest. In coming to this conclusion, the panel was mindful that the purpose of sanctions is to be proportionate and not punitive.

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 Green 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 conditions of practice order of interim suspension 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 Green's own interest until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Representations on interim order

The panel took account of the representations made by the NMC that if a finding is made that the registrant's fitness to practise is impaired on a public protection and/or public interest basis is made, and a restrictive sanction imposed we consider an 18 month interim order "*in the same terms as the substantive order*" should be imposed on the basis that it is necessary for the protection of the public and otherwise in 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 cover the twenty-eight-day appeal period.

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

That concludes this determination.