

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

**Substantive Meeting**

**Monday 24 July – Wednesday 26 July 2023**

Virtual Meeting

**Name of registrant:** Julie Meline Stephan

**NMC PIN:** 87I0544E

**Part(s) of the register:** Registered Nurse - Adult Nurse  
Level 1 (19 November 1990)

**Relevant Location:** Kent

**Type of case:** Misconduct

**Panel members:** Debbie Hill (Chair, Lay member)  
Des McMorrow (Registrant member)  
John Penhale (Lay member)

**Legal Assessor:** Alain Gogarty

**Hearings Coordinator:** Monsur Ali

**Facts proved:** Charges 1, 2, 3, 4 and 5

**Fitness to practise:** Impaired

**Sanction:** Suspension order (12 months with a review)

**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 the Notice of Meeting had been sent to Miss Stephan's registered email address by secure email on 14 June 2023.

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 the fact that this meeting was being heard virtually.

In the light of all of the information available, the panel was satisfied that Miss Stephan has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

## **Details of charges**

*'That you, a registered nurse:*

*1) On the nightshift of 21 to 22 August 2020 took one or more ampoules of Cyclizine from Cornwallis Ward for your own use.*

*2) On the nightshift of 25 to 26 August 2020*

- a) took an ampoule of Cyclizine from Cornwallis Ward for your own use;*
- b) self-administered Cyclizine by injection.*

*3) Between 21 and 26 August 2020 you took one or more needles and/or syringes from Cornwallis Ward for your own use.*

*4) Your actions at charges 1 and/or 2a) and/or 3 were dishonest in that you knew that the items specified in those charges were not owned by you and were intended for patient use.*

*5) Between 18 June 2021 and 22 March 2022 you failed to co-operate with a*

*request by the NMC for disclosure of your medical records and/or that you undergo medical testing and/or psychiatric examination.*

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

## **Decision and reasons on facts**

In reaching its decision on the facts, the panel took into account the witness statements, the exhibit bundle and admissions made by Miss Stephan.

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

The panel determined that the facts of charges 1, 2, 3, 4 and 5 are proved. It makes this decision having regard to the content of the witness statements, exhibit bundle and the admissions made by Miss Stephan set out in her email dated 12 January 2023.

The panel therefore finds charges 1, 2, 3, 4 and 5 proved in their entirety, by way of Miss Stephan's admissions.

## **Background**

Miss Stephan first entered onto the NMC register on 1 December 1999 as a Registered Adult Nurse.

Miss Stephan was referred to the NMC by the Chaucer Hospital (the Hospital) on 14 January 2021. At the relevant time Miss Stephan was working as a staff nurse on the Ward. Miss Stephan also supported students and junior staff in the role of a practice development nurse at the Hospital.

Miss Stephan began to work at the Hospital in November 2014.

[PRIVATE]

In 2019, Witness 1 became aware that the usage of Cyclizine injections had increased on the Ward. This did not correspond to the usage for the patients and several ampules were unaccounted for. Actions were taken to monitor the Cyclizine usage including installing CCTV cameras, locking the Cyclizine in the controlled drugs (CD) cupboard and increasing the amount of stock checks. The Cyclizine usage returned to normal levels, and it was then removed from the CD cupboard. The Hospital were unable to discover who was responsible for the discrepancies in the stock levels, but staff were aware that they were being monitored. However, Witness 1 continued to monitor the levels used.

On the night shift of 21 August 2020, Miss Stephan was working on the Ward alongside Witness 2. Witness 1 had discovered that the amount of stock Cyclizine being used had increased again and had escalated this to a senior staff nurse, who in turn informed Witness 2. The stock of Cyclizine was counted at the beginning of the shift at 19:20, and there were 14 vials. At 22:35, Witness 2 counted the stock again and discovered that two vials had been used and were accounted for. At 00:50, Witness 2 counted the stock once more and found that there were now only 11 vials remaining. One vial was unaccounted for.

Witness 2 then raised this with Witness 3 on 25 August 2020. Witness 2 had a strong suspicion that Miss Stephan had taken the medication and told Witness 3 that at times Miss Stephan acted in an erratic manner. As Miss Stephan was due to work on the Ward that night with Witness 2, it was decided that 2 would count the stock of Cyclizine during the night shift. Witness 3 was due to attend the Ward the following morning. Witness 2 counted the stock during the night and found:

- at 19:10 there were 15 vials
- at 22:00 there were 13 vials
- one vial had been administered to a patient
- one vial was unaccounted for.

When Witness 3 attended in the morning, they asked Miss Stephan directly if she had taken any Cyclizine. Miss Stephan then admitted to taking and injecting herself with one vial, using the Hospital's equipment in order to do so.

Miss Stephan was suspended from duty and an investigation was started. Miss Stephan emailed Witness 3 later that day expressing remorse. The police and CQC were informed. No further action was taken by either party.

[PRIVATE]

Miss Stephan informed the NMC in emails dated 9 June 2021 and 21 March 2022 that she no longer wishes to work in the healthcare profession. Miss Stephan admitted the charges and that her fitness to practise is impaired.

### **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 Miss Stephan'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 without restriction.

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

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

### **Representations on misconduct and impairment**

The panel had regard to the following representations from the NMC found in the Statement of Case:

**'Misconduct**

*The charge indicates that that Miss Stephan's fitness to practise is impaired by reason of misconduct.*

*The comments of Lord Clyde in Roylance v General Medical Council [1999] UKPC 16 may provide some assistance when seeking to define misconduct:*

*'[331B-E] Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rule and standards ordinarily required to be followed by a [nurse] practitioner in the particular circumstances'.*

*15. As may the comments of Jackson J in Calhaem v GMC [2007] EWHC 2606 (Admin) and Collins J in Nandi v General Medical Council [2004] EWHC 2317 (Admin), respectively*

*'[Misconduct] connotes a serious breach which indicates that the doctor's (nurse's) fitness to practise is impaired'.*

*And*

*'The adjective "serious" must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioner'.*

*Where the acts or omissions of a registered nurse are in question, what would be proper in the circumstances (per Roylance) can be determined by having reference to the Nursing and Midwifery Council's Code of Conduct. Whilst breaches of the*

*Code will not be conclusive as to the issue of misconduct, these are basic and fundamental requirements for the nursing profession.*

*At the material time, Miss Stephan was subject to the provisions of The Code: Professional standards of practice and behaviour for nurses and midwives (2015) ('the Code'). On the basis of the misconduct being found proved, it is submitted, that the following parts of the Code are engaged in this case:*

***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*

*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 and midwives to aspire to*

***23 Cooperate with all investigations and audits***

*This includes investigations or audits either against you or relating to others, whether individuals or organisations. It also includes cooperating with requests to act as a witness in any hearing that forms part of an investigation, even after you have left the register.*

*To achieve this, you must:*

*23.1 cooperate with any audits of training records, registration records or other relevant audits that we may want to carry out to make sure you are still fit to practise.*

*The NMC considers that Miss Stephan's conduct in self-administering the misappropriated medication while at work that was intended for patients then failing to co-operate with the NMC investigation by not giving the NMC permission to make investigatory enquiries into Miss Stephan's health falls seriously short of the standards expected of a registered nurse. Miss Stephan's conduct was dishonest which should always be considered serious as honesty and integrity are*

*fundamental tenets of the profession. It is submitted that her actions amount to misconduct.*

*It is submitted that the conduct of Miss Stephan detailed in the charges fell far short of what would have been expected of a registered professional. Miss Stephan's conduct would be seen as deplorable by fellow practitioners and would damage the trust that the public places in the profession.*

### **Impairment**

*Impairment needs to be considered as at today's date, i.e. whether Miss Stephan's fitness to practice is currently impaired. The NMC defines impairment as a Registrant's suitability to remain on the register without restriction.*

*The questions outlined by Dame Janet Smith in the 5th Shipman Report (as endorsed in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin)) are instructive.: Do our findings of fact in respect of the [registrant'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:*

- i) has [Miss Stephan] 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) ii) has [Miss Stephan] in the past brought and/or is liable in the future to bring the [nursing] profession into disrepute; and/or*
- iii) has [Miss Stephan] 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 and/or*
- iv) has [Miss Stephan] in the past acted dishonestly and/or is liable to act dishonestly in the future*

*It is the submission of the NMC that all four limbs above can be answered in the affirmative in this case. Dealing with each one in turn:*

*Limb i)*



*There is direct evidence that Miss Stephan's conduct placed patients at risk of harm. Miss Stephan's dishonest conduct of misappropriating medication/equipment in the workplace that was intended for patients may place patients at risk of harm if that dishonest conduct was repeated. Firstly there may be no medication to administer to a patient or Miss Stephan may not be fit to provide safe and effective care due to the effects of the medication administered.*

*Limb ii)*

*Miss Stephan's misconduct is likely to bring or have brought the nursing profession into disrepute. The public would be extremely concerned to hear that a nurse has stolen medication and equipment from the workplace and self-administered that stolen medication whilst on duty affecting their ability to practise safely. [PRIVATE]*

*Miss Stephan 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. The seriousness of the allegations are such that it calls into question Miss Stephan's professionalism and trustworthiness in the workplace. This therefore has a negative impact on the reputation of the profession and, accordingly, has brought the profession into disrepute.*

*Limb iii)*

*Nurses are expected to act with integrity and promote trust. The allegations involve theft of medication and equipment from Miss Stephan's workplace and self administration of that stolen medication whilst on duty affecting Miss Stephan's ability to practise safely and shows a lack of integrity and does not promote trust in the profession. Miss Stephan has breached fundamental tenets of the profession by failing to act with honesty and integrity.*

*The Parties have set out above the relevant sections of the Code they agree have been breached in this case. As such the Parties agree that Miss Stephan has breached fundamental tenets of the profession.*

*Limb iv)*

*iv) 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.*

*The NMC have considered their guidance “Can the concern be addressed?” FTP 13a. [PRIVATE] Therefore there is no evidence that the concerns which lead to her taking non-prescribed medication whilst on duty have been remediated. It is submitted that the dishonesty concerns are difficult to remediate and there is no evidence that those concerns have been remediated. There is no evidence to demonstrate that Miss Stephan understands how to act differently to avoid similar situations arising in future. In an email dated 21 March 2022 Miss Stephan advised the NMC that she no longer works in healthcare and was working in the hospitality industry. However the NMC has not been provided with evidence of this.*

*[PRIVATE] Public protection*

*Miss Stephan’s failings fall seriously below the standards expected of a nurse. The NMC has seen no evidence of Miss Stephan’s insight into their misconduct or any attempts to strengthen their practise. There is no evidence of remediation. For these reasons we believe Miss Stephan remains a risk to the health, safety or wellbeing of the public. A finding of impairment is therefore required for the protection of the public. Public interest*

*We consider that a finding of impairment on public interest grounds is required to declare and uphold proper standards and to maintain confidence in the profession and the NMC as a regulator. If no such finding of impairment is made this is likely to undermine confidence in the profession.*

*The allegations involve theft of medication and equipment from Miss Stephan's workplace and self-administration of non-prescribed stolen medication whilst on duty affecting Miss Stephan's ability to practise safely. [PRIVATE] We therefore consider that her fitness to practise is impaired on both public protection grounds and in the wider public interest.'*

The NMC requires the panel to bear in mind its overarching objective to protect 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. The panel has referred to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

The NMC invited the panel to find Miss Stephan's fitness to practise impaired on the grounds of public protection and also otherwise in the wider public interest.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council (No 2)* [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and *General Medical Council v Meadow* [2007] QB 462 (Admin).

### **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: Professional standards of practice and behaviour for nurses and midwives (2015) ('the Code').

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

***'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*

*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 and midwives to aspire to*

### **23 Cooperate with all investigations and audits**

*This includes investigations or audits either against you or relating to others, whether individuals or organisations. It also includes cooperating with requests to act as a witness in any hearing that forms part of an investigation, even after you have left the register.*

*To achieve this, you must:*

*23.1 cooperate with any audits of training records, registration records or other relevant audits that we may want to carry out to make sure you are still fit to practise.'*

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct.

The panel found that Miss Stephan's actions did fall seriously short of the conduct and standards expected of a registered nurse. The panel therefore determined that this amounted to misconduct.

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

The panel next went on to decide if as a result of the misconduct, Miss Stephan'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/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 finds that patients were put at risk as a result of Miss Stephan's misconduct. Miss Stephan's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that

confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

The panel noted that Miss Stephan has provided some evidence of steps taken to remediate the misconduct and some reflection. However, the panel was not satisfied that she has currently developed full insight into her misconduct and the impact of her actions on the profession, her colleagues and the public.

It also noted that Miss Stephan stole medication from her workplace more than once and this demonstrates a risk of repetition. The panel therefore determined that there is a risk of repetition and further damage to the reputation of the profession.

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

The panel bore in mind that the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that a finding of impairment on public interest grounds is required because public confidence in the profession would be significantly undermined if a finding of impairment were not made in this case and consequently finds Miss Stephan's fitness to practise impaired on these grounds.

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

## **Sanction**

The panel has considered this case very carefully and has decided to make a suspension order for a period of 12 months with a review. The effect of this order is that the NMC register will show that Miss Stephan's registration has been suspended.

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 Statement of Case the NMC had advised Miss Stephan that it would seek the imposition of a Strike-off order if it found Miss Stephan's fitness to practise currently impaired.

The panel had regard to the following representation from the NMC in the Statement of Case:

*'The NMC consider the following sanction is proportionate:*

- *A Striking-off Order*

*With regard to the NMC's sanctions guidance the following aspects have led to this conclusion:*

*The aggravating factors in this case include:*

- *Patients placed at risk of harm;*

*Ms Stephan raises personal mitigation which we would submit has a limited bearing on the outcome namely:-*

- *States she felt overwhelmed by time spent training other staff/workload;*
- *[PRIVATE]*
- *States she suffered harassment from a colleague but did receive support from management.*

*No action/imposing a caution order*

*Taking the least serious sanctions first, it is submitted that taking no action or imposing a caution order would not be appropriate in this case. The NMC Sanctions*

*Guidance (“the 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 of the misconduct and the case is not at the lower end of the spectrum of impaired fitness to practise. Additionally, neither sanction would restrict Miss Stephan from practising.*

#### *Conditions of Practice order*

*The 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 concern to uphold public confidence. In this case, a conditions of practice order would not be sufficient to protect the public, and would not be in the public interest. As Ms Stephan admits that she has acted dishonestly there are attitudinal concerns in this case which cannot be addressed by a conditions of practice order. Miss Stephan has also stated that she is not working in a healthcare setting and has no intention of doing so in future Therefore suitable and workable conditions cannot be formulated. Moreover, a conditions of practice order would not be sufficient to mark the seriousness of the concerns.*

#### **Suspension Order**

*According to the 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. Miss Stephan has not shown insight into the concerns raised or provided any evidence that the behaviour will not be repeated. [PRIVATE]. She has therefore failed to cooperate with an investigation undertaken by her regulator. Taking into account the nature and seriousness of the conduct temporary suspension from the register would be insufficient to protect patients, public confidence in nurses, the NMC as its regulator and professional standards. Furthermore, a suspension order would fail to adequately protect the public given the nature of the conduct.*



## ***Striking- off Order***

*Given the seriousness of the incident, it is submitted that Miss Stephan's conduct is fundamentally incompatible with ongoing registration. The allegations involve theft of medication and equipment from Miss Stephan's workplace and self administration of that stolen medication whilst on duty affecting Miss Stephan's ability to practise safely. [PRIVATE] Her conduct raises fundamental questions regarding her professionalism. As such, the NMC considers that a striking-off order is required Public confidence in the profession cannot be maintained unless Ms Stephan is removed from the register. It is the only sanction which will be sufficient to protect patients, members of the public and maintain professional standards.*

*Therefore, the NMC considers that a Striking-Off order is the proportionate and appropriate sanction*

*For the above reasons we invite the panel to make a Striking-Off Order.'*

## **Decision and reasons on sanction**

Having found Miss Stephan'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:

- Placed patients at risk of harm

The panel also took into account the following mitigating features:

- Early admission to the facts

- Felt overwhelmed by time spent training other staff/workload;
- [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 Miss Stephan'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 Miss Stephan's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. 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 Miss Stephan's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular:

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- *No evidence of general incompetence;*
- *Potential and willingness to respond positively to retraining;*
- *The nurse or midwife has insight into any health problems and is prepared to agree to abide by conditions on medical condition, treatment and supervision;*
- *Patients will not be put in danger either directly or indirectly as a result of the conditions;*
- *The conditions will protect patients during the period they are in force; and*
- *Conditions can be created that can be monitored and assessed.*

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 misconduct identified in this case was not something that can be addressed through retraining.

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

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

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*
- *In cases where the only issue relates to the nurse or midwife's health, there is a risk to patient safety if they were allowed to continue to practise even with conditions; and*
- *In cases where the only issue relates to the nurse or midwife's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions.*

The panel was satisfied that in this case there is no evidence of harmful deep-seated personality or attitudinal problems, no evidence of repetition of behaviour since the incident and the panel is satisfied that Miss Stephan has some insight and does not pose a significant risk of repeating behaviour. The panel noted the unique circumstances in which the dishonesty occurred and the context in which it occurred... [PRIVATE] It therefore determined that the misconduct was not fundamentally incompatible with remaining on the register.

It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Miss Stephan's case to impose a striking-off order.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction.

The panel noted the hardship such an order will inevitably cause Miss Stephan. However this is outweighed by the public interest in this case.

The panel considered that this order is necessary to protect the public and 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.

In making this decision, the panel carefully considered the written representation of the NMC in relation to the sanction that the NMC was seeking in this case. However, the panel considered that Miss Stephan should be given the opportunity to reflect on her actions and allow her the chance to put things right if she chooses to do so. The panel determined that a suspension order would give her the time to reflect about what she wants to do in the future and allow her the opportunity to rectify her misconduct.

The panel determined that a suspension order for a period of 12 months with a review was appropriate in this case to mark the seriousness of the misconduct.

At the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Engagement with NMC

- Attendance at the review hearing
- Up to date reflection on misconduct
- The steps taken to strengthen the nursing practice
- [PRIVATE]

If Miss Stephan no longer wishes to practice as a nurse, a reviewing panel has the power to allow the order to expire. This is an option if Miss Stephan makes it clear that she does not want to continue to practise.

This decision will be confirmed to Miss Stephan in writing.

### **Interim order**

As the suspension 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 Miss Stephan's own interest until the suspension 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:

*'If a finding is made that Miss Stephan's fitness to practise is impaired on a public protection and public interest basis and a restrictive sanction imposed we consider an 18 month interim suspension order should be imposed on the basis that it is necessary for the protection of the public and otherwise in the public interest. This is because any sanction imposed by the panel would not come into immediate effect but only after the expiry of 28 days beginning with the date on which the substantive decision letter is sent to Miss Stephan or after any appeal is resolved. An interim order of 18 months is necessary to cover any possible appeal period.'*

### **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 appeal period.

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

That concludes this determination.