

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

**Substantive Hearing  
24 April – 2 May 2023**

Virtual Hearing

**Name of registrant:** Catalina Puiu

**NMC PIN:** 14I0494C

**Part(s) of the register:** Registered Nurse – Sub Part 1  
Adult Nursing – 24 September 2014

**Relevant Location:** Belfast

**Type of case:** Misconduct

**Panel members:** John Penhale (Chair, Lay member)  
Janet Fitzpatrick (Registrant member)  
Susan Ellerby (Lay member)

**Legal Assessor:** Monica Daley

**Hearings Coordinator:** Jumu Ahmed

**Nursing and Midwifery Council:** Represented by Alban Brahimi, Case Presenter

**Miss Puiu:** Not present and not represented

**Facts proved:** Charges 1(a), 1(b)(i) – (v), 1(c), 1(d), 1(e), 2, 3, 4

**Facts not proved:** Charges 5, 6, 7

**Fitness to practise:** Impaired

**Sanction:** **Suspension order (12 months)**

**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 Miss Puiu was not in attendance and that the Notice of Hearing letter had been sent to Miss Puiu's registered email address on 23 March 2023. The panel were provided with a signed statement from NMC Listings Officer dated 23 February 2023 confirming this.

Mr Brahimi, 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 allegation, the time, dates and venue of the hearing and, amongst other things, information about Miss Puiu's 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 Miss Puiu 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 Miss Puiu**

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

Mr Brahimi referred the panel to the Proceeding in Absence bundle which documents the emails and telephone call correspondence between the NMC and Miss Puiu, in which

there was a successful telephone call on 10 November 2021. He submitted that there had been partial engagement by Miss Puiu as she was engaging with the NMC at the beginning of the investigations. However, Mr Brahimi submitted that since November 2021, there has been no further engagement in relation to these proceedings and, as a consequence, there was no reason to believe that an adjournment would secure her attendance on some future occasion.

Mr Brahimi referred the panel to screenshots of Facebook messages between Mr 1 and Miss Puiu where Mrs Puiu had stated that she does not wish to engage with the NMC proceedings. He submitted that this is evidence of Miss Puiu's disengagement.

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*' as referred to in the case of *R v Jones (Anthony William)* (No.2) [2002] UKHL 5.

The panel decided to disregard the undated screenshots of Facebook messages between Mr 1 and Miss Puiu sent to the NMC from Mr 1 as the authenticity of this evidence could not be verified.

The panel has decided to proceed in the absence of Miss Puiu. In reaching this decision, the panel has considered the submissions of Mr Brahimi and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones* and *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 Miss Puiu;
- Miss Puiu has not engaged with the NMC since November 2021 and has not responded to any of the emails sent to her about this hearing;

- There is no reason to suppose that adjourning would secure her attendance at some future date;
- 1 witness has attended today to give live evidence, others are due to attend;
- 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 occurred in 2017;
- Further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a public interest in the expeditious disposal of the case.

Further, the panel noted that the other than one email in March 2022, the NMC had not corresponded with Miss Puiu from November 2021 until serving notice of this hearing in March 2023. It was of the view that the NMC could have corresponded more frequently with Miss Puiu. It was of the view that Miss Puiu as a registrant had a professional responsibility to engage proactively with the NMC between that time.

There is some disadvantage to Miss Puiu in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her at her registered email address, she has made no response to the allegations. 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. Furthermore, the limited disadvantage is the consequence of Miss Puiu's decisions to absent herself from the hearing, waive her rights to attend, and/or be represented, and to not provide evidence or make submissions on her own behalf.

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

### **Details of charge (as amended)**

That you, a registered nurse:

- 1) In an online reference (the reference):
  - a) Purported to be Colleague A's line manager when you were not.  
**[PROVED]**
  - b) Stated or provided information that Colleague A:
    - i. Held the position of a staff nurse; **[PROVED]**
    - ii. Was a grade/band of a general nurse; **[PROVED]**
    - iii. Had worked with you in a clinical capacity for 6 to 12 months;  
**[PROVED]**
    - iv. Last worked clinically on a weekly basis; **[PROVED]**
    - v. Confirmed that you had witnessed, as Colleague A's current line manager, Colleague A competently perform one or more of the skills set out in schedule 1. **[PROVED]**
  - c) Provided particulars of Colleague A's sickness and/or training dates.  
**[PROVED]**
  - d) Provided information relating to Colleague A's personal attributes without declaring or disclosing that you were related to Colleague A.  
**[PROVED]**

- e) Described Colleague A's knowledge of the English language to be excellent. **[PROVED]**
  
- 2) Did not make the Home Manager Colleague B and/or the Deputy Manager Colleague C, aware that you had completed a reference for Colleague A before submitting an on line reference. **[PROVED]**
  
- 3) Were dishonest in charge 1(a) in that you knew you were not Colleague A's line manager when you completed the reference. **[PROVED]**
  
- 4) Were dishonest in one or more of the charges 1(b)(i) to 1(b)(v) (inclusive) in that you provided information which you knew to be inaccurate. **[PROVED]**
  
- 5) Were dishonest in charge 1(c) in that you purported to give information about Colleague A's sickness and training in a professional capacity when you knew any information you held was held in a personal capacity. **[NOT PROVED]**
  
- 6) Were dishonest in charge 1(d) in that you did not or omitted to declare that you were related to Colleague A. **[NOT PROVED]**
  
- 7) Were dishonest in charge 1(e) in that you knew that Colleague A had not taken and/or achieved the required NMC standard in an International English Language Testing System (IELTS). **[NOT PROVED]**

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

#### Schedule 1

- 1) Able to take charge;

- 2) Able to undertake an unsupervised drug round;
- 3) Safe use of syringe drivers;
- 4) Competent to change supra-pubic catheters;
- 5) Able to delegate effectively to untrained staff.

### **Decision and reasons on application to amend the charge**

The panel heard an application made by Mr Brahim, on behalf of the NMC, to amend the wording of charge 2.

The proposed amendment was to provide clarity, correct the typographical error and more accurately reflect the evidence.

- 2) Did not make the Home ~~Manger~~ **Manager** Colleague B and/or the Deputy Manager Colleague C, aware that you had completed a reference for Colleague A before submitting an on line reference.

The panel accepted the advice of the legal assessor and had regard to Rule 28 of the Rules.

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

## **Background**

The NMC received a referral on 5 November 2018, from Scottish Nursing Guild ('the Agency').

The charges arose whilst Miss Puiu was employed as a Home Manager for Cherryvalley Care Home (Cherryvalley), Four Seasons Healthcare Group Limited ('Four Seasons') when on 22 November 2017 she gave a reference for her husband (Colleague A) who worked at Parkview Care Home (Parkview). In this it is alleged she purported to be his line manager and provided details of his clinical competencies, grade and personal attributes which she was not in a position to comment upon and knew or ought to have known to be false.

A local investigation was commenced and Miss Puiu was suspended from Cherryvalley Care Home where she was employed on 6 December 2018. Prior to the scheduled disciplinary hearing on 11 February 2018, Miss Puiu resigned from her role. It is said that had Miss Puiu attended the disciplinary hearing she would have been summarily dismissed.

Colleague A was employed as a pre-registered nurse and was not registered with the NMC. He was originally employed to work as a Care Assistant. He then began to work as a pre-registered nurse. The registrant was working in a different home (Cherryvalley) to Colleague A (Parkview) albeit with the same organisation, and Miss Puiu was not his designated supervisor or mentor, although he worked at Cherryvalley on one or more occasions.

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 Mr Brahim.

## **Decision and reasons on facts**



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

The panel has drawn no adverse inference from the non-attendance of Miss Puiu.

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 oral evidence from the following witnesses called on behalf of the NMC:

- Colleague C: Deputy Home Manager at Parkview Care Home;
- Witness 2: Regional Manager who conducted the disciplinary hearing;
- Witness 3: Regional Support Manager who conducted the local investigation.

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

### **Charge 1(a)**

That you, a registered nurse:

- 1) In an online reference (the reference):
  - a) Purported to be Colleague A's line manager when you were not.

**This charge is found proved.**

In reaching its decision, the panel had sight of the online reference which was completed by Miss Puiu. It noted under section 'Your Details' within box 40 which requests for Miss Puiu's position, she had inputted '*Acting Home Manager*'. Further, within box 42 which questions '*Are you the candidate's line manager?*', Miss Puiu had entered 'Yes'.

The panel heard evidence from Colleague C, Witness 2 and Witness 3 that Colleague A had worked at Parkview and that he would have a line manager at Parkview. The panel noted from Miss Puiu's appeal letter dated 18 February 2019, which stated:

*'I may not have worked directly with [Colleague A] [...]*

The panel heard that Colleague A may have worked on a few occasions at Cherryvalley, where Miss Puiu was the acting registered manager. However, the panel heard witness evidence that Colleague A's line management would be provided by Parkview which was his permanent place of work though he was likely to be supervised by the nurse on duty at Cherryvalley on the limited occasions that he attended.

Witness 2, within her oral evidence, told the panel that it would be impossible for Miss Puiu to have been Colleague A's line manager.

The panel also noted from the registrant's bundle that Miss Puiu accepts that she was not Colleague A's line manager during the period she claimed within the reference.

In light of this, the panel determined, that on the balance of probabilities, it is more likely than not that within the online reference, Miss Puiu purported to be Colleague A's line manager when she was not. The panel, therefore, finds charge 1(a) proved.

### **Charge 1(b)(i) – (v)**

That you, a registered nurse:

- 1) In an online reference (the reference):
  - b) Stated or provided information that Colleague A:
    - i. Held the position of a staff nurse;
    - ii. Was a grade/band of a general nurse;
    - iii. Had worked with you in a clinical capacity for 6 to 12 months;
    - iv. Last worked clinically on a weekly basis;
    - v. Confirmed that you had witnessed, as Colleague A's current line manager, Colleague A competently perform one or more of the skills set out in schedule 1.

**These charges are found proved.**

In reaching this decision, the panel took particular note of the online reference form.

Within the reference, Miss Puiu had entered:

*'2. Position held by [Colleague A]: 'staff nurse'*

*'3. At what Grade/Band is [Colleague A] able to practice: 'general nurse'*

*4. In the last 3 years, how long have you worked with [Colleague A] in a clinical capacity? '6 to 12 months'*

*5. When did you last work clinically with the [Colleague A]: 'weekly basis'*

[...]

*'42. Are you [Colleague A's] line manager: 'Yes'*

[...]

45. *Did you work with [Colleague A] on your current ward: 'Yes'*

Miss Puiu had also entered '*Excellent*' for all the personal attributes within the reference.

Under section '*Please confirm skills listed which you have witnessed the applicant competently perform within the last 2 years*', Miss Puiu had entered 'Yes' to the majority of the boxes, to indicate that she had witnessed him performing the clinical skills that are listed.

In light of this, the panel determined, that on the balance of probabilities, it is more likely than not that within the online reference, Miss Puiu stated and provided the information for charges 1(b)(i) to (v). The panel, therefore, finds charges 1(b) proved in its entirety.

### **Charge 1(c)**

That you, a registered nurse:

- 1) In an online reference (the reference):
  - c) Provided particulars of Colleague A's sickness and/or training dates.

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

In reaching this decision, the panel took particular note of the online reference form.

The panel noted that throughout the reference, Miss Puiu did not input any specific information about Colleague A's sickness. However, under the section 'Training Dates [...]', for the training '*Practical Manual Handling*' Miss Puiu had entered '*04/09/2017*'.

In light of this, the panel determined, that on the balance of probabilities, it is more likely than not that within the online reference, as Miss Puiu had provided a training date for

*'Practical Manual Handling'*, Miss Puiu had provided a date for Colleague A's training only. The panel, therefore, finds charges 1(c) proved.

### **Charge 1(d)**

That you, a registered nurse:

- 1) In an online reference (the reference):
  - d) Provided information relating to Colleague A's personal attributes without declaring or disclosing that you were related to Colleague A.

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

In reaching this decision, the panel took particular account of the online reference form.

The panel noted that Miss Puiu had provided information about Colleague A's personal attributes. However, it also noted that within the reference, there was no disclosure made by Miss Puiu declaring that Colleague A was her husband.

The panel noted that there was no direct question within the reference form which asked of the relationship of the referee and the applicant.

In light of this, the panel determined, that on the balance of probabilities, it is more likely than not that within the online reference, Miss Puiu had provided information relating to Colleague A's personal attributes without declaring or disclosing that she was related to Colleague A. The panel, therefore, finds charges 1(d) proved.

### **Charge 1(e)**

That you, a registered nurse:

- 1) In an online reference (the reference):
  - e) Described Colleague A's knowledge of the English language to be excellent.

**This charge is found proved.**

In reaching this decision, the panel took particular account of the online reference form.

The panel noted that under section 29 of the reference which reads '*How would you describe [Colleague A's] knowledge of the English language [...], Miss Puiu had entered: 'Excellent'.*

The panel therefore determined, that on the balance of probabilities, it is more likely than not that within the online reference, Miss Puiu described Colleague A's knowledge of the English language to be excellent. The panel, therefore, finds charges 1(e) proved.

## **Charge 2**

- 2) Did not make the Home Manager Colleague B and/or the Deputy Manager Colleague C, aware that you had completed a reference for Colleague A before submitting an on line reference.

**This charge is found proved.**

In reaching this decision, the panel took particular account the evidence provided by Colleague C, Witness 2 and Witness 3.

During Colleague C's evidence, she told the panel that she was not aware that Miss Puiu had competed and submitted an online reference form for Colleague A.

Colleague C told the panel that normal practice at Parkview for all reference requests to be sent to the Home Manager who would either complete the reference or delegate appropriately. Although, the panel did not hear directly from Colleague B, as the Home Manager, it is likely that had this step been taken, the registrant would not have been permitted to provide the reference as she was not his line manager. This process was confirmed by Witness 2 and Witness 3.

The panel therefore determined, that on the balance of probabilities, it is more likely than not that within the online reference, Miss Puiu did not make Colleague B and/or Colleague C aware that she had completed and submitted a reference for Colleague A. The panel, therefore, finds this charge proved.

### **Charge 3**

- 3) Were dishonest in charge 1(a) in that you knew you were not Colleague A's line manager when you completed the reference.

**This charge is found proved.**

In reaching this decision, the panel took particular note of the online reference form and Miss Puiu's appeal letter dated 28 February 2019.

In considering whether Miss Puiu's actions were dishonest, the panel had regard to the test as set out in the case of *Ivey v Genting Casinos* [2017] UKSC 67:

- What was Miss Puiu's actual state of knowledge or belief as to the facts; and
- Was her conduct dishonest by the standards of ordinary decent people?

The panel took into account the NMC Guidance document 'Making decisions on dishonesty charges.'

The panel heard from three witnesses who worked within the organisation and their evidence indicated that the registrant must have been aware that she was not Colleague A's line manager. In addition, the panel noted from Mrs Puiu appeal letter where she states:

*'I may not have worked with him directly [...]*

In considering whether Miss Puiu's conduct would be regarded as dishonest by the standards of 'ordinary decent people', the panel bore in mind her state of mind at the time of this incident. The panel considered that the starting point in its deliberations was that Miss Puiu would have been aware that, even though Colleague A had worked some shifts at Cherryvalley, she was not Colleague A's line manager. Therefore, the panel was in no doubt that Miss Puiu knew that it was wrong to input that she was Colleague A's line manager within the online reference form. The panel determined that this behaviour would be regarded as dishonest by the standards of ordinary decent people in accordance with the test set out in *Ivey*. The panel therefore found Miss Puiu's actions at charge 1(a) to be dishonest. This charge is therefore found proved.

#### **Charge 4**

- 4) Were dishonest in one or more of the charges 1(b)(i) to 1(b)(v) (inclusive) in that you provided information which you knew to be inaccurate.

**This charge is found proved.**

In reaching this decision, the panel took into account the online reference form and the registrant's bundle which included Miss Puiu's email to the NMC dated 28 June 2018.

The panel was of the view that in finding charge 1(b)(i), this alone would be sufficient to find this charge proved as Miss Puiu knew that Colleague A did not hold the position of a



staff nurse. Moreover, the panel heard from Colleague C that Colleague A would not have been permitted to independently carry out the tasks in Schedule 1. However, in taking all of the sub charges collectively, the panel was of the view that in Miss Puiu's answering yes to each of those sections, she would have been aware that the information was not accurate.

The panel therefore determined that in Miss Puiu entering false information within the online reference form, that this behaviour would be regarded as dishonest by the standards of ordinary decent people in accordance with the test set out in *Ivey*. The panel therefore found Miss Puiu's actions at charge 1(b)(i) to 1(b)(v) to be dishonest. This charge is therefore found proved.

### **Charge 5**

- 5) Were dishonest in charge 1(c) in that you purported to give information about Colleague A's sickness and training in a professional capacity when you knew any information you held was held in a personal capacity

**This charge is found NOT proved.**

In reaching this decision, the panel took particular note of the online reference form and the particular wording of the charge.

As Miss Puiu had purported to give information about Colleague A's training in a professional capacity, the panel found charge 1(c) proved. However, the charge reads 'about Colleague A's sickness and training'. As there was no information within the online reference form about Colleague A's sickness, the panel could not find this charge proved.

### **Charge 6**

- 6) Were dishonest in charge 1(d) in that you did not or omitted to declare that you were related to Colleague A.

**This charge is found NOT proved.**

In reaching this decision, the panel took particular note of the online reference form, the Four Seasons Health Care Colleague Handbook which included a section on references and Miss Puiu's responses at the investigation interview.

The panel was of the view that, whilst it may be considered good practice, the panel received no evidence, that satisfied the required standard of proof that there was an onus or a requirement for Miss Puiu to declare that she was related to Colleague A. In addition, within the online form, there was no specific question requiring for her to make that declaration.

The panel also took into account the Four Seasons Health Care Colleague Handbook which included a section on references. The panel noted that there was no requirement made by the handbook that Miss Puiu must declare that she was related to those she gave a reference for.

The panel noted that in the within the interview, Miss Puiu explained that she understood the Agency to be aware of her relationship with Colleague A stating:

*'CP – I was honest from the start. the agency knew I was providing a reference, and that I was his wife. My husband was told that this would be acceptable.'*

The panel noted that the Agency had made the original referral to the NMC. However, the panel received no evidence regarding this.

Therefore, the panel had no evidence to contradict the registrant's assertion.

The panel was therefore of the view that the NMC had not proved its case on the balance of probabilities. In light of this, the panel finds this charge not proved.

### **Charge 7**

- 7) Were dishonest in charge 1(e) in that you knew that Colleague A had not taken and/or achieved the required NMC standard in an International English Language Testing System (IELTS).

**This charge is found NOT proved.**

In reaching this decision, the panel took particular note of the online reference form and the evidence provided by Witness 3, which included the investigation report dated 13 December 2018.

Under section 29 of the reference form, it asks:

*'How would you describe the applicant's knowledge of the English language? (In line with the 'Immigration Act, 2016' incorporation English language requirements for public sector workers'*

Miss Puiu had inputted *'Excellent'* (from what appears to be a drop down menu).

Under section 30 of the reference form, it asks:

*'In your opinion, is the applicant fluent enough to fulfil their role as an agency worker?'*

Miss Puiu had inputted *'Yes'*.

The evidence was that Colleague A was employed at Parkview for a considerable time, there was a requirement to communicate in English and there was no evidence of any dissatisfaction of his standard or his abilities.

The panel was of the view that the reference form was not asking for Colleague A's IELTS result, but rather her opinion on his English language. The panel noted that although this charge referred to IELTS test this was not had been requested on the application form. Therefore the panel is not satisfied that on balance of probabilities that Miss Puiu was dishonest in respect of this charge.

The panel noted within the investigation report dated 13 December 2018, Miss Puiu had told Witness 3:

*'He never sat his ILETs [...]' (sic)*

The panel noted that Miss Puiu was aware that Colleague A did not sit the IELTS test but there was no evidence that she was wrong in her assertion concerning his English language ability. The questioning on the online reference form could be seen as ambiguous and does not specifically ask for an IELTS test result. Therefore, the panel was of the view that the NMC had not proved its case on the balance of probabilities. It therefore finds this charge 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 Miss Puiu'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. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Miss Puiu's fitness to practise is currently impaired as a result of that misconduct.

### **Submissions on misconduct**

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

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

The NMC provided the panel with written submissions. Mr Brahimy identified the specific, relevant standards which the NMC say Miss Puiu's actions amounted to misconduct:

*'4. Although the following charges were not proven:*

*Charge 5;*

*Charge 6;*

*Charge 7;*

5. The NMC submit that the remainder of other charges being found proved, amount to misconduct. The following submissions are collectively made in respect of the proved charges:

a. The Registrant completed a form knowing that it was not true. Anyone reading the form will have been misled to believe that Colleague A was a qualified nurse, with a higher level of seniority than he actually was. This was done with a degree of evasion which is supported by the finding that the Registrant did not make the home manager or deputy manager aware of this online reference. This is an act or omission that falls short of what would have been proper in the circumstances.

b. There were a number of observations and skills purported to have been observed but it was entirely false given that the Registrant was not the line manager of Colleague A. This is misconduct that would be considered as deplorable by fellow practitioners, particularly when the Panel take into account the high status (acting home manager) of the Registrant.

c. The Panel have found dishonesty in that the Registrant completed a false online reference but also found misconduct where the correct process of was followed of making others aware of this reference request. Given that there was a handbook in place, and NMC witness evidence, the Registrant knew that she should have followed this. These points, whether individually or collectively considered, should connote a serious breach from the Registrant.

6. The NMC say that the following parts of The Code have been breached, but of course the Panel is able to consider any other parts as it sees fit (note that it is the 2015 version of the Code that applies in this case):

4 Act in the best interests of people at all times;

- 5 Respect people's right to privacy and confidentiality;*
- 7 Communicate early;*
- 8 Work cooperatively;*
- 9 Share your skills, knowledge and experience for the benefit of people receiving care and your colleagues;*
- 10 Keep clear and accurate records relevant to your practice;*
- 11 Be accountable for your decisions to delegate tasks and duties to other people;*
- 20 Uphold the reputation of your profession at all times;*
- 21 Uphold your position as a registered nurse, midwife or nursing associate;*

*7. Overall, the NMC further submits that the Registrant's actions as proven fall far short of what would be expected of a Registered Nurse. The public would expect that the profession will have staff that uphold a professional reputation. The Panel may find that most in breach are that of "20" and "21" above. The Registrant has clearly put into question the integrity and honesty of nurses and this will have an overall effect of the public's trust in the medical profession. The Registrant has also put her own practice into question where she has not produced accurate information and arguably demonstrated an attempt to mislead.*

*8. The NMC therefore invite the Panel to find misconduct.*

**Registrant's latest position**

*9. The Registrant did not attend the substantive hearing and the NMC submit that while the Panel have some knowledge of her responses from 2018, these are outdated insights and character references that do not reflect her current progress and appreciation of the Panel's findings. Given the Registrant's absence, the Panel are further denied an opportunity to assess her reaction and acknowledgment of these proven charges.'*

## Submissions on impairment

Mr Brahim 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).

The panel took into account the written submissions of the NMC:

*'13. The NMC say that the Registrant is impaired and that the last 3 limbs of Grant are engaged in this case. However, the Panel are at liberty to also make a finding of the first limb if they accept the points made in the conclusion - namely that Colleague A, or any other candidate, could have potentially gone on to treat patients.*

*14. The second limb is engaged as a result of the Registrant's behaviour, as found proven, plainly brings the profession into disrepute: a. It is unacceptable that any nurse, let alone that of an acting home manager, presents a dishonest referral that, in the NMC's submission, was biased as a result of a personal relationship. This will put into question whether other genuine referrals are believed and clearly put the profession into disrepute.*

*15. The third limb is engaged, where the Registrant has plainly breached fundamental tenets of the profession in numerous areas of the Code of Conduct as referred to above, but in particular:*

- a. Communicate early;*
- b. Keep clear and accurate records relevant to your practice (10.3);*
- c. Uphold the reputation of your profession at all times (20.2);*



*d. Uphold your position as a registered nurse, midwife or nursing associate (21.1).*

*16. The fourth limb is engaged, where the Registrant is liable to act dishonestly in the future given that there are multiple dishonesty charges found proven. a. The Panel are invited that each entry within the online form reflects a positive act of being dishonest. Each entry required thinking and a deliberate action to be responded to and thus reflecting multiple acts of dishonesty. Most entries touch on different subjects and areas and this shows that the Registrant was intending to cover a wide array of false representations. It should also be noted that Colleague A was marked as top tier in all entries which, not only may have been unlikely, but also shows the extent that the Registrant intentionally selected the maximum available for a false representation.*

*[...]*

*18. The NMC submit that there is a serious departure from the standards expected of a nurse. The Panel should consider impairment on the following grounds:*

**19. Public protection**

*a. There is a real risk of harm in this instance where future employers are misled into believing the qualities of a non-qualified individual (Colleague A) and possibly place him in position to undertake work that he may not be experienced to complete.*

*b. There is a risk of repetition given the multiple sections of the form being completed dishonestly, some of which was impossible to have been correct (namely the unsupervised work). This form was not retracted until the Registrant was pulled up on an investigation and there was still some denial that the*

*Registrant had done anything wrong. These two points show that it is likely such conduct would be repeated by the Registrant.*

## **20. Otherwise in the public interest**

*a. A member of public's confidence in the medical profession would be deeply undermined as, upon learning about these charges, they would have doubts about how the people treating them initially secured their job role. Was it through genuine applications or deceit? The trust in qualified nurses such as the Registrant may also be diminished as if they are known to be dishonest during an application process, there may be a lack of trust that extends to their actual clinical practice. Similarly, it may undermine the trust in the reference system for prospective employees and discourage them from seeking references and employing genuine candidates. The honest and integrity of the medical profession has been challenged and evidently been put into disrepute.*

*21. As such the NMC invite the Panel to find that the Registrant is currently impaired.'*

The panel also considered Miss Puiu's bundle which included a reflective piece, which although undated, would appear to have been attached to an email sent to the NMC in July 2021.

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, *General Medical Council v Meadow* [2007] QB 462 (Admin), *Cohen v General Medical Council* [2008] EWHC 581 (Admin) and *Grant*.

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

**'8 - Work cooperatively**

*To achieve this, you must:*

*8.2 maintain effective communication with colleagues*

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

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

*To achieve this, you must:*

*10.3 - complete all records accurately and without any falsification [...]*

**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 and without discrimination, bullying or harassment'*

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. It had regard to the case of *Roylance v General Medical Council* 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.'*

The panel determined that Miss Puiu's actions in each of the individual charges found proved did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct. It was of the view that Miss Puiu conduct was serious as she misrepresented her position when providing a reference, falsely stating that she was the line manager of the candidate, which was a serious breach of her honesty and integrity. The panel was of the view that Miss Puiu was an experienced registered nurse in a management position and would have the knowledge that she needed to be transparent when submitting the online reference for Colleague A. In addition, the panel determined that Miss Puiu would have known that she was providing false information when stating that Colleague A was employed as a staff nurse and that she had regularly witnessed his nursing skills.

The panel determined that Miss Puiu's dishonesty breached fundamental tenets of the Code and failed to uphold the reputation of the nursing professions. It, therefore, concluded that Miss Puiu's conduct was very serious and would be considered as *'deplorable'* by fellow practitioners.

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

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

The panel next went on to decide if as a result of the misconduct, Miss Puiu'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 concluded that all limbs of the test were engaged.

The panel noted that it was Miss Puiu's intention to support Colleague A by providing a false reference in which she purported to be Colleague A's line manager and incorrectly stated that he was a staff nurse. It was of the view that this may have led a future employer to believe he was a registered nurse and put significant weight on Miss Puiu's assessment on the Colleague A's clinical experience. This may have led a future employer to employ Colleague A and put them in a work situation for which Colleague A was not competent and therefore put patients/residents at risk of harm.

Having breached provisions of the Code, the panel determined that Miss Puiu's misconduct had breached fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. The panel was satisfied that confidence in the nursing profession would be undermined if its regulator did not find Miss Puiu's fitness to practise to be impaired and the charges relating to dishonesty as extremely serious.

Regarding insight, the panel took into account Miss Puiu's reflective piece from July 2021. It considered that Miss Puiu had thought about what she had done, and why she had acted in the way that she did. However, the panel was of the view there was insufficient evidence to demonstrate that Miss Puiu has full insight into her conduct and dishonesty.

The panel did not have any documentation or other evidence before it addressing Miss Puiu's insight on the impact her actions could have had on her patients, colleagues, the nursing profession and the wider public as a whole. Therefore, the panel was of the view that Miss Puiu had not demonstrated sufficient insight into the misconduct. The panel could not be satisfied, in the absence of any evidence, that Miss Puiu understands and appreciates the seriousness of her failure and her dishonesty.

The panel noted from Miss Puiu's reflective piece in which she stated:

*'I gave the reference with good faith, knowing that my husband was a qualified nurse, he was a registered nurse with NMBI, working full time as a nurse in the Republic of Ireland [...].*

[...]

*I do understand now that when I was asked to do this reference, I should immediately have sought guidance from my employer as to whether this was the correct action for me to take [...].'*

The panel was of the view that Miss Puiu, an experienced nurse and senior in her position as Home Manager, would know that as Colleague A did not have an NMC PIN, he was not a registered nurse in the United Kingdom, where the reference applied. It was of the view that this may demonstrate that Miss Puiu understands that she should not have given the reference. However, the panel was not satisfied that she fully acknowledges her dishonesty and accordingly, the panel was concerned that she does not have sufficient insight to prevent reoccurrence.

The panel next considered as to whether the misconduct and dishonesty was remediable. It was satisfied that the misconduct in this case is capable of remediation. It bore in mind that dishonesty is often more difficult to remediate than clinical concerns. Therefore, the panel carefully considered the evidence before it in determining whether or not Miss Puiu has remedied her conduct. The panel took into account the reflective piece written by Miss Puiu in which she stated:

*'[...] in order to improve my knowledge and understanding, I have again read the NMC Code of Professional Conduct; NMC – Openness and honesty when things*

*go wrong: the professional duty of candour; policis – Dishonest behaviour by health and care professionals: Exploring the views of general public and professionals.'*  
(sic)

The panel was of the view that Miss Puiu had not fully demonstrated remorse or shown sufficient evidence of the steps she had taken to strengthen her practice to satisfy the panel that she had remediated her conduct. The panel bore in mind that Miss Puiu had not engaged with the NMC since 2021.

Given the lack of sufficient insight and remediation, the panel therefore determined that there remains a risk of repetition of the misconduct found proved and therefore, the panel decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel considered there to be a public interest in the circumstances of this case. The panel found that the charges found proved are serious and include dishonesty. It was of the view that a fully informed member of the public would be concerned by its findings on facts and misconduct. The panel concluded that public confidence in the nursing profession would be undermined if a finding of impairment was not made in this case. Therefore, the panel determined that a finding of impairment on public interest grounds was also required.

Having regard to all of the above, the panel was satisfied that Miss Puiu's fitness to practise as a registered nurse is currently impaired on the grounds of public protection and public interest.



## **Sanction**

The panel has considered this case very carefully and has decided to make a suspension order for a period of 12 months. The effect of this order is that the NMC register will show that Miss Puiu'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.

## **Submissions on sanction**

The panel took into account the written submissions of the NMC. In Mr Brahim's submissions he referred to the Sanctions Guidance and the approach to be adopted by the panel. He referred the panel to the following aggravating and mitigating features:

### *'Aggravating features*

- a. Abuse of position of trust;*
- b. There were varied records;*
- c. Conduct could have put patients at risk of harm;*
- d. Portraying that Colleague A is a qualified nurse in the UK is a grave matter, particular when the Registrant knew of the strict requirements.*

### *Mitigating features*

- a. No previous misconduct.'*

Mr Brahimi referred the panel to the fact that there had been no previous interim order that the panel needed to take into account in reaching its decision on sanction. He invited the panel to consider the sanctions in ascending order. However, he submitted that due to the seriousness of the facts the panel found proved, that the appropriate and proportionate sanction in this case was a 12 months period of suspension.

The panel took account of the information previously provided by Miss Puiu and the testimonials. In particular, the panel noted that in Miss Puiu's letter of appeal dated 18 February 2019 following her dismissal, she stated:

*'I think I was caught between my work, [PRIVATE] and at the time I thought I was doing the right thing. I have realized that I made an error of judgement which I regret deeply and one which I will never repeat it.'* (sic)

### **Decision and reasons on sanction**

Having found Miss Puiu'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:

- Conduct which had the potential to put patients at risk of harm.
- Abuse of trust in her position as a registered nurse.
- Misuse of power as a Home Manager.
- The nature of the dishonesty found proved which had the potential for financial gain.

- Premeditation in that Miss Puiu deliberately completed the form falsely when she knew that she should not.

The panel also took into account the following mitigating features:

- Shown some insight in admitting to failing to follow procedures and has taken some steps to remediate the concerns.
- One off incident as only one reference was submitted.
- The panel acknowledged that Miss Puiu may have been experiencing difficult personal circumstances at the time.

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 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 Puiu'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 Puiu'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.

The panel was of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. Further, it determined that, as

Miss Puiu's case is not predominantly a clinical concern, a conditions of practice order will not satisfactorily address the public interest. 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 Puiu'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.*

The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register. The panel noted that there was a potential risk of harm to the public, but that the risk was low and the reoccurrence of that risk is also low. It determined that a period of suspension would allow Miss Puiu to develop further insight into her wrongdoings, take steps to strengthen her practice and to provide a further reflective piece.

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 at this stage in the proceedings. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in Miss Puiu'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 Puiu. However this is outweighed by the public interest in this case. In addition, this order will enable time for further reflection and remediation addressing the misconduct found proved.

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.

The panel determined that a suspension order for a period of 12 months 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:

- Miss Puiu's engagement with the NMC.
- Miss Puiu's attendance at the review hearing.
- A further reflective piece to demonstrate Miss Puiu's insight and any steps of remediation with reference to the misconduct found proved.
- Up to date testimonials and/or character reference concerning Miss Puiu's honesty and reliability.
- Information about Miss Puiu's current work practices, paid or unpaid, and references from a line manager or supervisor.
- Evidence of professional development, including documentary evidence to demonstrate Miss Puiu maintaining her professional skills.

This will be confirmed to Miss Puiu 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 Puiu's own interest until the suspension sanction takes effect.

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

### **Submissions on interim order**

The panel took account of the submissions made by Mr Brahimi. He submitted that an interim suspension order for a period of 18 months is required for the same reasons as submitted previously and to allow sufficient time for any appeal to be heard.

### **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 in order to protect the public during any potential appeal period.

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

That concludes this determination.