

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

**Substantive Hearing
Thursday 21 September 2023**

Virtual Hearing

Name of Registrant:	Christopher Boothroyd
NMC PIN	05G2033E
Part(s) of the register:	Registered Nurse – Sub part 1 Learning Disabilities Nursing, level 1 – 17 December 2005
Relevant Location:	England
Type of case:	Misconduct
Panel members:	Richard Weydert-Jacquard (Chair, Registrant member) Jim Blair (Registrant member) Janine Green (Lay member)
Legal Assessor:	Angus MacPherson
Hearings Coordinator:	Hazel Ahmet
Nursing and Midwifery Council:	Represented by Leesha Whawell, Case Presenter
Mr Boothroyd:	Not present or represented at the hearing
Consensual Panel Determination:	Accepted
Facts proved:	Charges 1, 2, 3 and 4
Facts not proved:	N/A
Fitness to practise:	Impaired
Sanction:	Striking-off Order

Interim order:

Interim suspension order (18 months)

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mr Boothroyd was not in attendance and that the Notice of Hearing letter had been sent to Mr Boothroyd's registered email address by secure email on 31 July 2023.

Further, the panel noted that the Notice of Hearing was also sent to Mr Boothroyd's representative at the Royal College of Nursing (RCN), on 31 July 2023.

Ms Whawell, 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, date and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mr Boothroyd's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

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

Decision and reasons on proceeding in the absence of Mr Boothroyd

The panel next considered whether it should proceed in the absence of Mr Boothroyd. It had regard to Rule 21 and heard the submissions of Ms Whawell who invited the panel to continue in the absence of Mr Boothroyd. She submitted that Mr Boothroyd had voluntarily absented himself.

Ms Whawell informed the panel that a provisional Consensual Panel Determination (CPD) agreement had been signed by the NMC on 21 September 2023. The panel was shown a screenshot of Mr Boothroyd's signature on the CPD, whereby he had signed on 15

September 2023. She referred the panel to the first paragraph of the CPD agreement, which states:

'Mr Boothroyd is aware of the CPD hearing. Mr Boothroyd does not intend on attending the hearing and is content for it to proceed in his and his representative's absence. Mr Boothroyd will endeavour to be available by telephone should clarification on any point be required, or should the panel wish to make other amendments to the provisional agreement.'

Ms Whawell also referred the panel to the documentation from Mr Boothroyd's representative which included an email stating that Mr Boothroyd is aware of the hearing today and is content for it to proceed in his absence.

Ms Whawell submitted that an adjournment of today's hearing would serve no purpose, and that to proceed today is in the interest of justice.

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 has decided to proceed in the absence of Mr Boothroyd. In reaching this decision, the panel has considered the submissions of Ms Whawell, the representations made on Mr Boothroyd's behalf, and the advice of the legal assessor. It has had particular regard to the overall interests of justice and fairness to all parties. It noted that:

- Mr Boothroyd has engaged with the NMC and has signed a provisional CPD agreement stating that he does not wish to attend, which is before the panel today;
- There is no reason to suppose that adjourning would secure his attendance at some future date; and
- There is a strong public interest in the expeditious disposal of the case.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Mr Boothroyd.

Details of charge

‘That you, a registered nurse:

- 1) On or around 21 April 2022, accepted a payment of £10,000 from Resident A;*
- 2) By your actions at Charge 1 above, you took advantage of a vulnerable patient in your care for your own financial, and/or personal gain;*
- 3) Between 14 April 2022 and 14 May 2022, you sent Resident A one or more messages on Facebook and/or by text;*
- 4) Your action at charge 1 and/or 3 above were a breach of professional boundaries.*

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

Consensual Panel Determination

At the outset of this hearing, Ms Whawell informed the panel that a provisional agreement of a Consensual Panel Determination (CPD) had been reached with regard to this case between the NMC and Mr Boothroyd.

The agreement, which was put before the panel, sets out Mr Boothroyd’s full admissions to the facts alleged in the charges, that his actions amounted to misconduct, and that his fitness to practise is currently impaired by reason of that misconduct. It is further stated in the agreement that the appropriate sanction in this case would be a striking-off order and that an interim suspension order for a period of 18 months should be imposed.

The panel has considered the provisional CPD agreement reached by the parties.

That provisional CPD agreement reads as follows:

'Fitness to Practise Committee

Consensual panel determination ("CPD"): provisional agreement

The Nursing & Midwifery Council ("the NMC") and Christopher John Boothroyd, PIN 05G2033E ("the Parties") agree as follows:

- 1. Mr Boothroyd is aware of the CPD hearing. Mr Boothroyd does not intend on attending the hearing and is content for it to proceed in his and his representative's absence. Mr Boothroyd will endeavour to be available by telephone should clarification on any point be required, or should the panel wish to make other amendments to the provisional agreement.*

The charge

- 2. Mr Boothroyd faces the following charges:*

That you, a registered nurse:

- 1) On or around 21 April 2022, accepted a payment of £10,000 from Resident A;*
- 2) By your actions at Charge 1 above, you took advantage of a vulnerable patient in your care for your own financial, and/or personal gain;*
- 3) Between 14 April 2022 and 14 May 2022, you sent Resident A one or more messages on Facebook and/or by text;*
- 4) Your action at charge 1 and/or 3 above were a breach of professional boundaries.*

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

- 3. Mr Boothroyd has admitted the charges and conceded that his fitness to practise is impaired by his misconduct.*

The facts

4. *Mr Boothroyd appears on the register of nurses, midwives and nursing associates maintained by the NMC as a Registered Nurse – Learning Disabilities and has been on the NMC register since December 2005.*
5. *The agreed facts are as follows:*
6. *Mr Boothroyd commenced employment at Boarbank Hall Nursing Home (‘the Home’) as a bank staff nurse in 2019. He did not work at the home during the Covid-19 pandemic, between 2019 and 2022. He began working at the Home on an interim basis in January 2022 and left his employment at the Home on 22 April 2022. The Home is a 27 bedded nursing home that cares for a mixture of patients, mainly frail elderly patients who require assistance with their nursing needs.*
7. *Mr Boothroyd was provided with a copy of the employee handbook in 2019 and signed an acknowledgement form on 28 August 2019 to confirm he had read and understood the content and that he would adhere to the employee handbook and the Home’s published policies. The employee handbook includes the following paragraphs in relation to gifts and gratuities:*

“Employees are not permitted to accept any form of gift, gratuity or bequest from our services users past or present, their family, relatives or friends. Any such offers must be reported to the Manager or in her absence the most senior nurse on duty.

Employees must explain politely that it is their job to help them and that there is no question of them accepting personal gifts or gratuities for the care services given. Should the employee not be able to deter the giving of the gift or gratuity then the employee must direct them to the Manager.”
8. *On 27 January 2022, Resident A [PRIVATE]. Resident A had full capacity to make decisions and her mental state was not affected. Resident A was quite independent with their own self-care. Nonetheless, Resident A was vulnerable consequent to her medical condition(s) and/or circumstances. Mr Boothroyd*

accepts that as a member of Resident A's clinical team, he was aware of her vulnerability.

9. *During her time at the Home, Resident A developed a relationship with Mr Boothroyd. Resident A spoke to her family about Mr Boothroyd; [PRIVATE].*
10. *Mr Boothroyd and Resident A first exchanged Facebook messages on 14 April 2022. The messages sent by Mr Boothroyd were from his personal Facebook account.*
11. *The initial Facebook messages read as follows:*

14 April 2022

Resident A – “x”

Chris Boothroyd – “How doo (sic) x”

17 April 2022

Resident A – “Hi Chris, [PRIVATE]!!!! Hope you are enjoying your day off. See you soon xx [Resident A]”

Chris Boothroyd – “Hi you. Dam (sic), that's not good! No paracetamol or anything? Hope they have sorted [PRIVATE] for you if needed? X I will see you bright and early ok x I will see what I can get sorted, even though it's a bank holiday x”

Chris Boothroyd – “I will crack some skulls for it ok, with both the pharmacist and G.P xx”

12. *On or around 21 April 2022, Resident A gave Mr Boothroyd a cheque for £10,000 as a gift, which Mr Boothroyd accepted. Mr Boothroyd agrees that he knew he should not have accepted the cheque and that he did not report it to the Home's management as he ought to have done in line with the Home's policy. He further acknowledges that he subsequently cashed the cheque from Resident A. Mr Boothroyd ceased to work at the Home on 22 April 2022.*

13. After his departure from the Home Mr Boothroyd and Resident A continued to correspond, primarily via text messages. Mr Boothroyd used his personal phone to text Resident A. The text messages read as follows:

23 April 2022

Resident A: [07.10] Sorry about getting [angry emoji] I fo (sic) hope all works out well and that you both get to fulfil your dream of working together we will miss you here but life carries on even with Person B !!! -Take care and love to you both
[Resident A] [heart emoji]

Chris Boothroyd: [08.24] Good morning :-) you out (sic) an angry face [angry emoji] instead of a crying [crying emoji] one. I am going to work my socks off to make sure it does happen. Hope you slept ok last night x

Chris Boothroyd: [21.40] Never heard back from you. Hope all is ok x x

Resident A: Hi all okay thanks.Had a visitor today outside.tonight I am battling...

Chris Boothroyd: [22.29] How long ago did you take the pill? I think it will work just fine for you. Hope your (sic) in bed ready to drop right off. It was nice to see your message when I woke up this morning to x x

Resident A: [22.32] Yes I am in bed.watching millionaire x

Chris Boothroyd: [22.33] Who wants to be a millionaire? X How long ago did you take the pill? X

Resident A: [22.36] 9ish

Chris Boothroyd: [22.37] I think you will be dreaming very soon x

Resident A: Thanks I will think of a Chinese sweet and sour pork Hong Kong...

Resident A [22.57] Ha ha xxx

Chris Boothroyd: [23.02] Just let me know when you want one and it's yours :-) I'm just watching the new Batman movie. [redacted] is washing battles getting ready to go up. A quiet day today for us x x

24 April 2022

Chris Boothroyd: [20.36] So? Did you sleep? X did it work? X

25 April 2022

Resident A: [06.49] Had a better night last night but didn't take the ... just the oxymoron (sic). Hope you are both okay..x

27 April 2022, 16.29

Resident A: Dreadful night. i complained about the rubber mattress not helping things they are aware of it now. Evetythin (sic) else as ever. Miss having you around. so do lots of others. Hope you're enjoying your freedom!!! At least for a while. i [PRIVATE] and some of the district nurses are very keen. Fingers crossed it gets going. Take care xx [Resident A]

Date unknown

Chris Boothroyd: [16.34] So they are getting you another mattress? Who else is missing he (sic) then? [PRIVATE]? X :-). X miss you too

Resident A: [16.40] Some of the nurses have various treatments from someone. ... and a lot of the staff enjoyed having uou (sic) around.xx

Chris Boothroyd: [17.50] Ah they wouldn't come to me who's just a beginner rather than who they usually go to. But one can hope x

Chris Boothroyd: [17.51] [PRIVATE]. Something like this perhaps x

Chris Boothroyd: [17.52] It's nice to hear that I'm missed. [PRIVATE]. Have you been keeping as busy as you can be? X

29 April 2022

Resident A: [23.24] The chair looks amazing [clapping emoji] xxx

Chris Boothroyd: Hi. Though you got lost. [PRIVATE]. Enrolled on a few more courses.

Date unknown:

Resident A: [08.16] Yes

Chris Boothroyd: [08.18] [PRIVATE]

Resident A: [08.19] Chinese to me.i think perhaps it needs resetting.

Chris Boothroyd: [08.19] Have you clicked the link I've sent you? X

Resident A: [08.35] I don't know what to do sorry a novice

Chris Boothroyd: [08.36] Just tap it and it will take you to a YouTube video of how to check your connection. X x

Chris Boothroyd: [08.37] Failing hat grab a member of staff x x

02 May 2022

Chris Boothroyd [10.47] Let's (sic) the renovations commence xx morning :-)

Resident A: [12.47] Good luck hope sll (sic) goes well xx

03 May 2022

Resident A: [10.45] Can you text me I am just checking my phone as some texts are not connecting [Resident A]

Chris Boothroyd: [10.48] Hi x

Resident A: [11.01] Thanks Chris xx

Chris Boothroyd: [11.23] You ok this morning? X

Resident A: [12.06] Yes thanks xx

04 May, 19.51

Resident A: Computer [emoji] sorted [Person F] [PRIVATE]. Fingers crossed it comes on tomorrow. We'll here goes for another lack of sleep night. i think I should sleep all day and wake at night.Hope you have had a productive day oh [Person E] [PRIVATE].hope she's okay she is one of the best.xx[Resident A]

Dates unknown:

Chris Boothroyd: [10.57] How you doing? X x

Chris Boothroyd: [PRIVATE]

Chris Boothroyd: [PRIVATE]

Chris Boothroyd: [PRIVATE] x

Chris Boothroyd: [23.34] Kidnappe (sic) you at some point for a day out? X

Resident A: [23.35] Not sure if it's allowed in the rules.but that would be lovely

Chris Boothroyd: [23.35] What rules? I don't work there and have never been employed there. X

Chris Boothroyd: [23.36] I will contact [Person F]. Test (sic) me [redacted] and [redacted] as best I can and come and grab you x

Chris Boothroyd: [23.37] As as (sic) long as I don't take you to a pub or any other social gathering it's ok x

Resident A: [23.41] Ok. Good night x

Dates unknown:

Chris Boothroyd: [12.13] ... lights upstairs for the girls to work. (rolling eyes emoji)
Had a sparky out and now all sorted. X

Resident A: [12.20] Oh dear glad it's all sorted.a bit chaotic here today shower didn't materialise and lunch came twice !! All oksy (sic) though Xx

Chris Boothroyd: [12.34] Feeding you well then :-) How have you been feeling? X

Resident A: [12.39] Okay thanks.today is a better day xx

Chris Boothroyd: [22.43] I am going to email [Person F] in the morning, to request that I come and kidnap you for a day ok x x

Resident A: [07.31] Do you know about computers I cannot access the Internet not sure what to do.it was working yesterday morning and went off in the [PRIVATE] and I canot (sic) get a signal now. I have tried switching on znd (sic) off to no avail and this morning is still the same. Can you help???

Chris Boothroyd: [07.34] Morning. When is the next bank holiday then? X Are you connected to Boar banks (sic) internet? X

Resident A: [08.07] Boarbank told me they have very...

14. *Resident A passed away on [PRIVATE]. Mr Boothroyd sent another Facebook message to Resident A on 14 May 2022, which read as follows:*

14 May 2022

Chris Boothroyd – “Hey. I’ve messaged you a few time (sic) this week. Hoping your (sic) ok x x ”

15. *Shortly after her death, Resident A’s family discovered the issue of the cheque and the messages and reported the matter to the Home and NMC. On 24 January 2023, through his representatives, Mr Boothroyd informed the NMC that he had repaid the money to Resident A’s estate. Email confirmation from [PRIVATE] Executors dated 19 January 2023 confirmed the money had been received.*

Misconduct

16. *Lord Clyde in Roylance v General Medical Council [1999] UKPC 16 provides guidance when considering what could amount to 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 rules and standards ordinarily required to be followed by a [nurse] practitioner in the particular circumstances’

17. Further assistance may be found in 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):

‘[Misconduct] connotes a serious breach which indicates that the [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 practitioners’.

18. At the relevant time, Mr Boothroyd was subject to the provisions of **The Code: Professional standards of practice and behaviour for nurses and midwives (2015)** (“the Code”). It is agreed that the following provisions of the Code have been breached in this case:

17 Raise concerns immediately if you believe a person is vulnerable or at risk and needs extra support and protection

To achieve this, you must:

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

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...

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

20.6 stay objective and have clear professional boundaries at all times with people in your care (including those who have been in your care in the past), their families and carers

20.8 act as a role model of professional behaviour for students and newly qualified nurses to aspire to.

21 Uphold your position as a registered nurse, midwife or nursing associate

To achieve this, you must:

21.1 refuse all but the most trivial gifts, favours or hospitality as accepting them could be interpreted as an attempt to gain preferential treatment

21.2 never ask for or accept loans from anyone in your care or anyone close to them

21.3 act with honesty and integrity in any financial dealings you have with everyone you have a professional relationship with, including people in your care

19. The Parties agree that the facts amount to misconduct. The misconduct in this case relates to concerns regarding professional boundaries and taking advantage of an elderly and vulnerable patient for personal financial gain, both of which forms significant aspects of nursing practice.

20. There is an inherent power imbalance in a nurse-patient relationship, which dictates that nurses must maintain professional boundaries. This is primarily to protect the patient's interests but also protects those of the registered professional. When the lines between personal and professional relationships become blurred, it significantly undermines this confidence both as between the nurse and the patient and between the patient and their wider clinical team with whom they may feel they do not have a 'special' relationship. When professional boundaries are not clear it can have a deleterious effect on a patient's mental health.

21. *Maintenance of professional boundaries protects patients from abuse or the suspicion of it. This is of critical importance because nurses (and others involved in patient care) have privileged and potentially far-reaching access to information about patients which can be readily used to manipulate and abuse them. Even the suspicion that this might be happening is corrosive to public trust.*
22. *Resident A spoke to her family about Mr Boothroyd and told them some of the personal information he had share with her. However, Resident A's family was unaware of the Facebook and text communication between Mr Boothroyd and Resident A. They were unaware Resident A had given a cheque for £10,000 to Mr Boothroyd.*
23. *One of Resident A's final acts in life was to write him a cheque for a large sum of money. As a registered nurse Mr Boothroyd was under a duty to safeguard Resident A from financial abuse. He knew he was under a duty to report any offers of a gift to the Home manager and he knew he was under a wider professional duty to refuse all but trivial gifts. In failing to disclose the offer of the gift to the Home manager or disclose the same to Resident A's family, and by failing the refuse the cheque, it is agreed Mr Boothroyd his took advantage of Resident A for his own financial benefit.*
24. *Mr Boothroyd's failings are therefore serious and fall short of what would be expected of a registered nurse in the circumstances. The areas of concern identified relate to basic nursing knowledge and fundamental tenets of the profession. These failings are likely to cause risk to patients in the future if they are not addressed.*

Impairment

25. *Mr Boothroyd's fitness to practise is currently impaired by reason of his misconduct.*
26. *The NMC's guidance at [DMA-1](#) explains that impairment is not defined in legislation but is a matter for the Fitness to Practise Committee to decide. The question that will help decide whether a professional's fitness to practise is impaired is:*

"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"

27. *If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired. Answering this question involves a consideration of both the nature of the concern and the public interest.*
28. *Registered professionals occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and families must be able to trust registered professionals with their lives and the lives of their loved ones, especially those who are vulnerable. Registered professionals must therefore act with integrity at all times.*
29. *The parties agree that consideration of the nature of the concern involves looking at the factors set out by Dame Janet Smith in her Fifth Report from Shipman, approved in the case of [Council for Healthcare Regulatory Excellence v \(1\) Nursing and Midwifery Council \(2\) Grant \[2011\] EWHC 927 \(Admin\)](#) by Cox J;*
- 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 professions 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 professions; and/or*
 - d) Has in the past acted dishonestly and/or is liable to act dishonestly in the future?*
30. *The Parties have also considered the comments of Cox J in [Grant](#) at paragraph 101:*
- “The Committee should therefore have asked themselves not only whether the Registrant continued to present a risk to members of the public, but whether the need to uphold proper professional standards and public confidence in the Registrant and in the profession would be undermined if a finding of impairment of fitness to practise were not made in the circumstances of this case.”*
31. *In this case, limbs (a), (b), and (c) are engaged. Mr Boothroyd accepted thousands of pounds from a vulnerable resident who was on end-of-life care that he had known for a relatively short period of time and did not report it to his then employer. He*

communicated with Resident A on multiple occasions via text message and/or social media, during and after his employment at the Home, using his personal contact details, about matters not relating to his care of Resident A.

- 32. Maintenance of professional boundaries and the safeguarding of patients from financial abuse are fundamental tenets of nursing. Breaches of professional boundaries places patients at unwarranted risk of harm e.g., psychological harm, being taken advantage of or abused etc. In accepting and cashing the cheque from Resident A without going through the proper channels, Mr Boothroyd's actions constituted a breach of trust placed in him as a registered professional and is likely to bring the reputation of the profession into disrepute.*
- 33. NMC guidance adopts the approach of Silber J in the case of [R \(on application of Cohen\) v General Medical Council \[2008\] EWHC 581 \(Admin\)](#) by asking the questions whether the concern is easily remediable, whether it has in fact been remedied and whether it is highly unlikely to be repeated.*
- 34. The NMC's guidance titled ['Serious concerns which are more difficult to put right'](#) provides that some concerns are so serious that it may be less easy for the registered professional to put right the conduct or aspect of their attitude which led to the incident(s) happening. One criterion that causes a concern to qualify as such is 'exploiting patients or abusing the position of a registered nurse, midwife or nursing associate for financial or personal gain.' The Parties agree this case falls within this category.*
- 35. The Parties therefore concluded that, in line with the guidance, while this is conduct which is less likely to be remediated solely through training and supervision, if it is to be remediated then evidence that Mr Boothroyd has participated in steps to strengthen his practise will be essential. Such steps will include, but are not limited to, extensive training on professional boundaries, safeguarding vulnerable patients and financial abuse, and a reflective piece to demonstrate an understanding of the misconduct committed.*

Remorse, reflection, insight, training and strengthening practice

36. *The Parties next considered if Mr Boothroyd has reflected and taken opportunities to show insight into what happened. In his completed CMF dated 09 June 2023 Mr Boothroyd admits charges (1), (3) and (4) and concedes that his fitness to practise is impaired, therefore demonstrating some insight. He further wrote in the CMF:*

The Registrant accepts his actions amount to misconduct. He accepts he took a cheque given to him by Resident A and that he subsequently cashed the cheque. He accepts communicating with the Resident in question. He accepts this breached professional boundaries and that he never should have accepted the cheque nor communicated with the Resident in the way he did. He deeply regrets his actions.

He is sorry for the distress his actions must have caused the family at a painful time for them, when they should have been able to grieve the death of their family member. He is remorseful for his actions and for bringing the profession into disrepute.

With regard to Charge 2, the Registrant does not accept he took advantage of the Resident, rather he, wholly unjustifiably [sic], accepted her generosity.

37. *In his reflection document dated 06 July 2022, Mr Boothroyd wrote:*

The Reason for this reflection is due to me accepting a financial gift from a resident under my care on the last day I was working in a nursing home in the capacity of an agency nurse. Regardless of the circumstances surrounding this [Resident A] offering me this, I should not have accepted it. Under the NMC code of conduct section 21.1 it states that I must refuse all gifts but trivial ones. This is a code I have abided to my whole career, practicing with the upmost professionalism and working to the highest standards. On this occasion I have broken the code of conduct. For this I could not be more remorseful or ashamed for acting in such a way that is now going to jeopardise my future career as a nurse.

When [Resident A] offered me this cheque within the last hour of my last shift, I should have refused despite how insistent she was with me that she wanted to

do this for me. I should have suggested to her that the money should have been donated directly to the home and following this I should have reported this matter to the home manager.

There has been absolutely no coercion on my part, and I was really shocked that she offered me this out of the blue, telling me that she had been thinking all week about doing this for me.

I want to apologise to the NMC for my serious lack of judgment and weakness. I can only assure you that I am of a very good character and a very caring professional nurse, who does not want to lose this privileged right to serve and care for others in need. This will not happen again and if you see fit following your investigation to allow me to continue as a nurse, I will follow any guidance you put in place for me to do so.

Finally, I would like to apologise to [Resident A]'s family, for any upset I have caused them.

38. *In a letter dated 06 July 2022, the Royal College of Nursing ('RCN') say, on behalf of Mr Boothroyd:*

'There is no evidence that Mr. Boothroyd coerced or abused his position of trust in as much as [Patient] A gave the cheque to him of her own volition.'

39. *In a letter dated 24 January 2023 to the NMC, the RCN:*

- Advised that Mr Boothroyd has made a repayment of £10,000 to Resident A's estate and provided email confirmation from executors of Resident A's estate, dated 19 January 2023, confirming repayment;*
- Provided a Professional Boundaries Training Certificate for Mr Boothroyd dated 19 December 2022*

40. *It is agreed that Mr Boothroyd's insight is limited, in that he has not demonstrated an appreciation for the power imbalance in the nurse-patient relationship with Resident A, which underpins the impropriety in his acceptance of the money and communication with her using his personal phone and/or social media accounts. He*

has also not demonstrated an appreciation for the risk of harm that his actions could have had on Resident A e.g., psychologically and/or emotionally, for the potential impact on her family, his colleagues, and the risk of the public's confidence in the profession being undermined. In his reflections he has not articulated how the training has been incorporated into his approach to his professional duties.

41. *It is agreed Mr Boothroyd's additional training on professional boundaries, a single online two-hour course, is insufficient to address the risk of repetition.*
42. *In his reflection document of 06 July 2022, Mr Boothroyd did not express remorse for the impact of his actions on Resident A, nor did he provide an analysis of why he behaved the way he did or an appreciation for the seriousness of his actions. Mr Boothroyd has expressed regret for his actions and stated that they were wrong, but it is agreed he has not shown sufficient insight as to why his actions were wrong. In the circumstances, the Parties agree that Mr Boothroyd has not remediated the concerns raised by his conduct and his insight is limited. The risk of repetition therefore remains high.*

Public protection impairment

43. *A finding of impairment is necessary on public protection grounds.*
44. *In the absence of evidence of full insight and remediation, and based on the serious nature of the concerns, Mr Boothroyd is liable in the future to put patients at unwarranted risk of harm were he to practise without any restrictions.*

Public interest impairment

45. *A finding of impairment is necessary on public interest grounds.*
46. *In Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) at paragraph 74 Cox J commented that:*

"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.”

47. *Consideration of the public interest therefore requires the Fitness to Practise Committee to decide whether a finding of impairment is needed to uphold proper professional standards and conduct and/ or to maintain public confidence in the profession.*
48. *In upholding proper professional standards and conduct and maintaining public confidence in the profession, the Fitness to Practise Committee will need to consider whether the concern is easy to put right. For example, it might be possible to address clinical errors with suitable training. A concern which has not been put right is likely to require a finding of impairment to uphold professional standards and maintain public confidence.*
49. *However, there are types of concerns that are so serious that, even if the professional addresses the behaviour, a finding of impairment is required either to uphold proper professional standards and conduct or to maintain public confidence in the profession. It is submitted that this is one such case.*
50. *The public expect nurses to treat them with care and maintain their dignity at all times. The public’s confidence in the profession would be undermined if a finding of impairment was not made with reference to a nurse who had communicated with a vulnerable patient on end-of-life care through social media and/or private text messages and accepted a substantial amount of money from said patient. Public confidence in the profession would also be undermined if a finding of impairment were not made because the money has since been returned. It is agreed that Mr Boothroyd accepted the money from Resident A and he would not have returned it had it not been discovered and reported to the Home by Resident A’s family.*
51. *A finding that Mr Boothroyd’s fitness to practise is also impaired on public interest grounds is therefore necessary.*
52. *For the reasons above, Mr Boothroyd’s fitness to practise is currently impaired by reason of his misconduct, on both public protection and public interest grounds.*

Sanction

53. *The appropriate sanction in this case is a **Striking-off order**.*
54. *The Parties have considered the NMC's guidance ([SAN-3c](#)) to assist with the determination of the appropriate sanction.*
55. *The following aggravating features are present in this case:*
- *Mr Boothroyd has shown deep-seated attitudinal concerns in putting his own financial gain above his professional duties as a registered nurse.*
 - *Resident A was vulnerable and on end-of-life care when she met Mr Boothroyd, who was part of her clinical team and therefore occupied a position of trust*
 - *The amount of money cashed by Mr Boothroyd was substantial i.e., £10,000*
 - *Mr Boothroyd had completed training at the Home which addressed financial gifts from patients and adult safeguarding, specifically financial abuse*
 - *The concerns only came to light when the executors of Resident A's will were settling her estate i.e., Mr Boothroyd failed to report it to his employer*
 - *Mr Boothroyd only returned the money after it has been reported to the Home by her family.*
 - *Mr Boothroyd has displayed limited insight*
56. *In taking the available sanctions in ascending order, the Parties first considered whether to **take no action or make a caution order**. It is agreed that neither of these sanctions would be appropriate in view of the seriousness of Mr Boothroyd's actions, the need to protect the public, and the need to declare and uphold proper standards of conduct.*
57. *Imposing a **Conditions of Practice Order** would not be appropriate. Mr Boothroyd's conduct is attitudinal in nature and cannot be addressed by such an order. This sanction would not reflect the seriousness of the misconduct therefore public confidence in the professions and professional standards would not be maintained.*

58. *Imposing a **Suspension order** would not be sufficient to protect the public. The guidance at [SAN-3d](#) indicates that such an order would be appropriate where there is “no evidence of harmful deep-seated personality or attitudinal problems” and “the Committee is satisfied that the nurse, midwife or nursing associate has insight and does not pose a significant risk of repeating behaviour”. Neither of those factors apply in the present case. A Suspension order would not reflect the seriousness of the misconduct. Therefore, public confidence in the profession and professional standards would not be maintained.*
59. *In any event, a **Striking-Off Order** is the appropriate sanction in this case.*
60. *Mr Boothroyd’s actions present the significant risk of seriously undermining the public’s trust and confidence in him. His conduct is fundamentally incompatible with being a registered professional. Only a Striking-Off Order will be sufficient to protect patients, maintain public confidence in the profession and maintain professional standards.*

Referrers’ comments

61. *On 21 August 2023 the NMC emailed Dr 1 and Person G for comments on the CPD agreement.*
62. *On 23 August 2023 the NMC received a response from Person G. Person G agreed with the proposed sanction and wrote:*

I believe that Christopher Boothroyd would have been aware of the potential consequences of accepting the gift of money from a dying patient, both from the NMC code of conduct as well as Boarbank Hall's Policy in respect of accepting gifts from patients.

I believe that there was ample opportunity for Christopher Boothroyd to have made Boarbank Hall management team aware that a patient had offered a gift of money. I believe that Christopher Boothroyd would have known that he would have been advised that under no circumstances could this gift be accepted and that Boarbank Hall would have also advised the patient that the gift of money could not be given to Christopher Boothroyd.

63. On 28 August 2023 the NMC received a response from Dr 1. Dr 1 agreed with the proposed sanction and wrote:

I have had an opportunity to discuss this with Person H who has also been involved in this case. We are broadly in agreement with the provisional agreement that has been made between the relevant parties...

Interim order

64. An interim order is required in this case. The interim order is necessary for the protection of the public and/or is otherwise in the public interest for the reasons given above. The interim order should be for a period of 18 months in the event that Mr Boothroyd seeks to appeal the panel's decision. The interim order should take the form of an interim suspension order.

The Parties understand that this provisional agreement cannot bind a panel, and that the final decision on findings impairment and sanction is a matter for the panel. The Parties understand that, in the event that a panel does not agree with this provisional agreement, the admissions to the charges and the agreed statement of facts set out above, may be placed before a differently constituted panel that is determining the allegation, provided that it would be relevant and fair to do so.

Signed Dated

[Name of nurse/midwife/nursing associate]

Matthew Cassells
Signed Dated...21 September 2023

(For and on behalf of the NMC)'

Here ends the provisional CPD agreement between the NMC and Mr Boothroyd. The provisional CPD agreement was signed by Mr Boothroyd on 15 September 2023 and by the NMC on 21 September 2023.

Decision and reasons on the CPD

The panel decided to accept the CPD.

Ms Whawell referred the panel to the 'NMC Sanctions Guidance' (SG) and to the 'NMC's guidance on Consensual Panel Determinations'. She reminded the panel that they could accept, amend or outright reject the provisional CPD agreement reached between the NMC and Mr Boothroyd. Further, the panel should consider whether the provisional CPD agreement would be in the public interest. This means that the outcome must ensure an appropriate level of public protection, maintain public confidence in the professions and the regulatory body, and declare and uphold proper standards of conduct and behaviour.

The panel accepted the legal assessor's advice.

The panel noted that Mr Boothroyd in paragraph 3 of the CPD, admitted all four charges against him. All the charges are therefore found proved. For the avoidance of doubt, in respect of charge 2, the panel finds that by accepting the payment of £10,000 from Resident A, when he was not as a registered nurse entitled so to do, Mr Boothroyd was taking advantage of a vulnerable patient in his care for his own financial and / or personal gain.

Accordingly, the panel was satisfied that the charges are found proved by way of Mr Boothroyd's admissions, as set out in the signed provisional CPD agreement.

Decision and reasons on impairment

The panel then went on to consider whether Mr Boothroyd's fitness to practise is currently impaired. Whilst acknowledging the agreement between the NMC and Mr Boothroyd, the panel has exercised its own independent judgement in reaching its decision on impairment.

In respect of the misconduct, the panel determined that it was extremely serious and drew attention to the paragraphs of the code which Mr Boothroyd breached. The panel determined Mr Boothroyd's behaviour was far below that which is expected of a registered nurse, and further highlighted that the patient in question was highly vulnerable and the amount which Mr Boothroyd had taken was large.

In this respect, the panel endorsed paragraphs 16 to 24 of the provisional CPD agreement in respect of misconduct.

The panel then considered whether Mr Boothroyd's fitness to practise is currently impaired by reason of misconduct. The panel determined that Mr Boothroyd's fitness to practise is currently impaired and considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC* and *Grant* in reaching its decision. The panel determined that the following three limbs in the test propounded by Dame Janet Smith in her fifth report to the Shipman Inquiry to which Mrs Justice Cox referred in *Grant* are engaged; namely whether the registrant's fitness to practice is impaired by misconduct in the sense that he a registered nurse;

'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;'

The panel therefore determined that, due to the seriousness of the misconduct and the fact that Mr Boothroyd only returned the money after it became known that he had received it rather than of his own initiation, his fitness to practice remains impaired. The panel concluded that Mr Boothroyd's fitness to practice is impaired on the grounds of public protection.

The panel further determined that a well-informed member of the public would be dismayed if the panel did not find that Mr Boothroyd's fitness to practice was impaired following a finding of this nature. Therefore, his fitness to practice remains impaired on the grounds of public interest.

In this respect the panel endorsed paragraphs 25 to 52 of the provisional CPD agreement.

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- Mr Boothroyd has shown deep-seated attitudinal concerns in putting his own

financial gain above his professional duties as a registered nurse.

- Resident A was vulnerable and on end-of-life care when she met Mr Boothroyd, who was part of her clinical team and therefore occupied a position of trust.
- The amount of money cashed by Mr Boothroyd was substantial i.e., £10,000.
- Mr Boothroyd had completed training at the Home which addressed financial gifts from patients and adult safeguarding, specifically financial abuse.
- The concerns only came to light when the executors of Resident A's will were settling her estate i.e., Mr Boothroyd failed to report it to his employer.
- Mr Boothroyd only returned the money after it has been reported to the Home by her family.
- Mr Boothroyd has displayed limited insight.
- Mr Boothroyd communicated in an informal and unprofessional manner, through an equally inappropriate medium whilst off duty with the patient.

The panel also took into account the following mitigating features:

- Mr Boothroyd has undertaken some training on professional boundaries.
- Mr Boothroyd has no previous history of fitness to practice concerns.

The panel did note that Mr Boothroyd has demonstrated some level of insight and showed some level of remorse. The panel discussed whether these should be considered as mitigating factors. With reference to the NMC guidance at SAN-1, the panel concluded that due to the limited nature of the insight and remorse they did not show the case to be less serious or point towards a sanction with less impact being appropriate and, consequently, should not be considered to be mitigating features.

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

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mr Boothroyd's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mr Boothroyd's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mr Boothroyd's registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The misconduct identified in this case was not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Mr Boothroyd'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 conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel noted that the very serious breach of the fundamental tenets of the profession evidenced by Mr Boothroyd's actions is fundamentally incompatible with Mr Boothroyd remaining on the register.

In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

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

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

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

Boothroyd's actions were serious and to allow him to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel agreed with the CPD that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the matters it identified, in particular the effect of Mr Boothroyd's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct himself, the panel has concluded that nothing short of this would be sufficient in this case.

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

This will be confirmed to Mr Boothroyd in writing.

Decision and reasons on interim order

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

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 agreed with the CPD that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months.

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

That concludes this determination.