Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing
Tuesday 14 November 2023 – Tuesday 21 November 2023
Thursday 30 November 2023 (Panel only sitting)
Friday 12 April 2024

Virtual Hearing

Name of Registrant:	Nina Groves
NMC PIN	09L0017E
Part(s) of the register:	Nurse Independent / Supplementary Prescriber – (September 2018) Registered Nurse – Sub Part 1 Adult Nursing – (February 2010)
Relevant Location:	North East Lincolnshire
Type of case:	Misconduct
Panel members:	Judith Webb (Chair, lay member) Jillian Claire Rashid (Registrant member) Claire Corrigan (Lay member)
Legal Assessor:	Caroline Hartley (14 – 21 November 2023) Nigel Pascoe KC (30 November 2023) Cyrus Katrak (12 April 2024)
Hearings Coordinator:	Sharmilla Nanan (14 – 21 and 30 November 2023) Charis Benefo (12 April 2024)
Nursing and Midwifery Council:	Represented by Ashraf Khan, Case Presenter (14 – 21 November 2023) Represented by Alastair Kennedy, Case Presenter (12 April 2024)
Mrs Groves:	Not present and not represented at the hearing
Facts proved:	Charges 1a, 1b, 1c, 1d, 1e, 1f, 1g, 2, 3, 4 and 5

Interim order:	**Interim suspension order (18 months) – (IO imposed after conclusion of the facts stage when the case went adjourned part-hard)**
Fitness to practise:	**Impaired**
Sanction:	**Striking-off order**
Interim order:	**Interim suspension order (18 months)**

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Mrs Groves was not in attendance and that the Notice of Hearing letter had been sent to Mrs Groves' registered email address by secure email on 9 October 2023.

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

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

Decision and reasons on proceeding in the absence of Mrs Groves

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

Mr Khan submitted that there had been no recent engagement by Mrs Groves with the NMC 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. He

referred the panel to the recent contact made by the NMC by email on 9, 25 October and 1 November 2023, and by telephone calls on 25 October 2023. He noted that the NMC had been unsuccessful in engaging with Mrs Groves on these occasions.

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 Mrs Groves. In reaching this decision, the panel has considered the submissions of Mr Khan, 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 Mrs Groves;
- Mrs Groves has not engaged with the NMC and has not responded to any of the emails or calls about this hearing;
- Mrs Groves has not provided the NMC with details of how she may be contacted other than her registered details;
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- Five witnesses have been warned to attend the hearing during the course of this listing to give live evidence;
- Not proceeding may inconvenience the witnesses, their employers and, for those involved in clinical practice, the clients who need their professional services;
- The charges relate to events that occurred between 2015 and 2019;

- Further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mrs Groves 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 will not be able to challenge the evidence relied upon by the NMC 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 Mrs Groves' decision to absent herself from the hearing, waive her right to attend, and/or be represented, and to not give oral evidence or make submissions on her own behalf.

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

Details of charge

That you, a registered nurse:

1) Between 2015 and 17 September 2019 on more than one occasion:

   a) Made multiple bookings for the same patients on the same day when they were not clinically justified;

   b) Made entries in patient's records indicating they had attended for appointments when they had not;

c) Generated prescriptions for patients when you had not examined the patient;

d) Accessed your own medical records in breach of company policy;

e) Generated prescriptions for your own use without obtaining the necessary authorisation from a GP;

f) Failed to maintain professional boundaries in that you inappropriately treated the following patients who were related to you:

i) Patient J
ii) Patient K
iii) Patient L
iv) Patient M
v) Patient N

g) Prescribed inappropriately high quantities of Codeine to Patient K.

2) On 23 August 2019 prescribed 28 tablets of Diazepam to Patient O without the necessary authorisation from a GP.

3) On 30 August 2019 inappropriately asked Colleague 1 to generate prescriptions of controlled drugs for your own personal use.

4) Your actions in charge 1) a) above were dishonest in that you knew the second and/or subsequent appointments were not necessary and you intentionally failed to notify the patients of these appointment in order to create more free time in your diary.

5) Your actions in charge 1) b) above were dishonest in that you knew the patients had not attended for appointments.

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

Background

The charges arose whilst Mrs Groves was employed as a registered nurse practitioner by Clee Medical Centre (CMC).

It is alleged that Mrs Groves manipulated the booking system at CMC and made unnecessary additional appointments for patients without their knowledge and falsified patients' records by recording that the patients had attended the appointments when they had not.

Mrs Groves would allegedly regularly book appointments for her family members, and treat her family and she would generate prescriptions for them. It is also alleged that Mrs Groves regularly generated prescriptions for patients who she had not appropriately examined, and she generated her own prescriptions and pressured colleagues to print repeat prescriptions on her behalf.

There are also concerns regarding Mrs Groves' prescribing practices in relation to controlled drugs, namely codeine and diazepam.

The CMC commenced disciplinary proceedings against Mrs Groves but Mrs Groves resigned before these were concluded.

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

During the course of the hearing the panel sought legal advice that parts of this case be held in private on the basis that proper exploration of Mrs Groves' case involves reference to her [PRIVATE]. The application was made pursuant to Rule 19.

The panel invited submissions from Mr Khan, who indicated that he supported the application.

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

The panel determined to go into private session in connection with Mrs Groves' [PRIVATE] in the case as and when such issues are raised in order to protect each parties' respective right to privacy.

Decision and reasons on facts

In reaching its decisions on the facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Khan on behalf of the NMC and the written representations made by Mrs Groves and her former instructed solicitors.

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

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

The panel heard live evidence from the following witnesses called on behalf of the NMC:

- Witness 2: Employed at CMC as an Assistant Practice Manager.
- Colleague 1/ Witness 1: Registered nurse employed by CMC as a Nurse Practitioner.
- Witness 3: Registered nurse employed by CMC as an Advanced Nurse Practitioner and Lead Nurse.
- Witness 4: Employed by CMC as a Practice Manager.
- Witness 5: Employed by CMC as a full time Paramedic Practitioner.

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

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

Charge 1a

"That you, a registered nurse:

1) Between 2015 and 17 September 2019 on more than one occasion:

a) Made multiple bookings for the same patients on the same day when they were not clinically justified"

This charge is found PROVED.

In reaching this decision, the panel took into account the evidence of Witness 2, Witness 3, Witness 4, Witness 5 and the responses to the allegations provided on Mrs Groves' behalf dated 31 August 2021.

The panel considered the evidence of Witness 3. It noted that in her NMC witness statement she said *'My list of patients and Nina's list of patients would be right next to each other on the booking system, so I could see her appointment bookings. One day I noticed that the system showed Nina had five patients waiting for her and I had a free slot, so I went to the waiting room to help Nina by seeing one of her patients for her. It is common for practitioners to assist each other in this way. Once I entered the waiting room I saw that there were not any patients waiting. I went back to my room and checked the system again and noticed that on the Appointment Ledger it showed that all the patients who had been waiting a few minutes earlier had been seen and finished by Nina which was not possible.'* In her oral evidence, she stated that it was her view that these appointments had not been booked in or triaged by reception. She explained that reception had a system to ensure patients with specific needs were allocated to clinicians with the appropriate skills. Witness 3 explained that she noted that this had not happened in this case but that they were therefore booked in by Mrs Groves. Further, Witness 3 stated that she had noted that it was a daily occurrence to find double appointments, duplicate bookings and multiple bookings for same patients on the same day which were not clinically justified on the booking system in Mrs Groves' list.

Witness 2 and Witness 4, in their oral evidence, both said that it was clear that Mrs Groves had filled multiple bookings for patients which were not clinically justified. It was also clear that she was block booking appointment slots. The panel noted that they both referred to the approved process which was built in for block booking appointment slots.

The panel considered the evidence of Witness 5. It noted in her oral evidence, she stated that only in an emergency would it be clinically justified to book a double appointment to

see a patient, and this would need to be approved by a General Practitioner (GP) before doing so. She provided the panel with an example of when she had to request further additional time to see a patient from the GP. She stated that it appeared that it was routine for Mrs Groves to see straightforward patient concerns in a double appointment which was not in accordance with the CMC's policy.

The panel considered the appointments list for 2 August 2019. It noted that two appointments had been made for each of Patients G, H and I. The panel could not see any information in the contemporaneous logs which justified the need for the patients to be seen over the course of two appointments. The logs indicated that the patients had attended for minor illnesses, and it heard oral evidence from Witness 5 that these concerns can be dealt with in the usual allocated appointment slot though, the day would even itself out if an appointment did run on for short time. Witness 5 stated that she would sometimes go into Mrs Groves room towards the end of the working day and noted that Mrs Groves had often already packed her bag and similarly noted that Mrs Groves had often taken a longer lunch instead of seeing patients. There was consistent evidence from at least three witnesses that there were already 'catch up slots' allocated within the patient appointment system.

The panel considered a letter to the NMC, dated 31 August 2021, sent on behalf of Mrs Groves from the Royal College of Nursing (RCN), who represented her at that time. Within the letter it stated:

> *'In order to effectively manage her own workload our member booked patient appointments when she had free slots in order to catch up with the work instigated by those patients she had seen earlier that she couldn't finish off. There was no falsification of patients' records – she was simply finishing off the work that had arisen as a result of the earlier consultations and she considered, that by booking the further time out in that patient's name that it would show that she had spent, for example, 20 min that day on this*

patient's needs in 2x 10 slots. This, she considered was the best way to show how much time she had actually spent.'

The panel considered the evidence before it and it noted that there were no records or evidence that Mrs Groves had spoken to a GP or the practice manager to request extra time to spend with these patients. The panel determined that between 2015 and 17 September 2019 on more than one occasion Mrs Groves had made multiple bookings for the same patients on the same day when they were not clinically justified. The panel therefore found charge 1a proved.

Charge 1b

"1) Between 2015 and 17 September 2019 on more than one occasion:

b) Made entries in patient's records indicating they had attended for appointments when they had not"

This charge is found PROVED.

In reaching this decision, the panel took into account the evidence of Witness 3 and Witness 5.

The panel considered the evidence of Witness 3. It noted that in her NMC witness statement she said *'When I looked on the booking system, I could see that the unnecessary double bookings were always made by Nina instead of the reception team and the audit trail would show that the patient was booked, arrived, seen and finished by Nina all in the same minute which is not possible… Nina would also document a consultation as a home visit even though it was a telephone consult…'* The panel found Witness 3 to be consistent in describing this event in her oral evidence.

Witness 3 also stated in her NMC statement that *'I was attending to a patient and the patient told me she had spoken to a nurse over the phone who had told her how to treat her skin rash, but she had come into the clinic now as she was concerned the symptoms weren't improving. I reviewed the patient's records and saw that Nina was the nurse who had previously seen the patient and the notes written on the record by Nina stated the patient had attended the practise and had a face to face consultation. I queried this with the patient who confirmed she only spoke to Nina over the phone. As I knew Nina had already been told not to do this, I reported the incident to the Practise Manager, [Witness 4].'* Witness 3 noted that this was a frequent occurrence and that a pattern was emerging in Mrs Groves behaviour in this respect.

The panel considered the evidence of Witness 5. In her NMC witness statement she stated *'The …duplicated bookings would often be the last appointment of the day which would enable Nina to finish work early when the patient did not arrive… When I looked on SystmOne, she would make notes describing how she had examined the patent, but this was not true.'* In her supplementary statement she stated *'…when looking at a patient's medical records and each time we (nurses) record any contact or consultation we have had with the patient on SystemOne [sic] the system automatically records our name as well as the time and date of the entry. So when Nina recorded a consultation with a patient in the morning and documented it on SystemOne [sic], it was recorded with her name, the time and date. In the afternoon when she booked further appointments with the same patient, it was clear the patient never returned for the fictitious appointment as nothing was recorded on the patient's records and the patient could not be treated or prescribed without Nina going into the records.'* In her oral evidence she said that the patients on the appointments list were not attending these appointments and that Mrs Groves was seeing the patients "*far too quickly*" as it was "*physically impossible"*.

The panel considered the evidence before it. It determined that between 2015 and 17 September 2019 on more than one occasion Mrs Groves made entries in patients records indicating they had attended for appointments when they had not.

Charge 1c

"1) Between 2015 and 17 September 2019 on more than one occasion:

c) Generated prescriptions for patients when you had not examined the patient"

This charge is found PROVED.

In reaching this decision, the panel took into account the evidence of Witness 3 and Witness 5.

The panel considered the evidence of Witness 3. In her NMC statement, she stated *'Nina would also document a consultation as a home visit even though it was a telephone consult. Each practitioner is allocated a number of home visits, but Nina would often ring the patient instead and record it as a home visit even though she never left the practise… Further Nina was generating prescriptions for patients that had only had a telephone consult. This is dangerous as you cannot tell if the patient actually needs the prescription or not.'*

The panel considered the evidence of Witness 5. In her NMC statement she said *'Nina would also often generate a prescription for herself, her relatives and other patients without a consultation… It is also concerning to prescribe for patients without physically assessing them. On one instance, I went to see an end of life patient called [Patient H] at his home to examine a skin growth. [Patient H] was on Nina's list of patients a few days later and she was supposed to go for a home visit to examine his chest for a chest infection. Nina did not visit the patient, nor did she leave CMC that day but she stated in the patient's record that she had listened to the patient's chest and prescribed him medication for a chest infection.'*

The panel noted by way of context to the issue of prescribing that prior to 12 September 2018 Mrs Groves was generating prescriptions for codeine when she had no qualifications to prescribe at all. From 12 September 2018, Mrs Groves had qualified as a non-medical prescriber which permitted to her to generate prescriptions for conditions within her sphere of competence which is minor illness. Codeine as a controlled drug fell outside of her sphere of competence. Furthermore, the panel took into account the NMC's Standards of Proficiency for Nurse and Midwife Prescribers which prohibits prescribing a controlled drug for yourself and you can only prescribe a controlled drug for someone close to you when there is no other person with the legal right available to prescribe and only then, if that treatment is immediately necessary to; save life, avoid significant deterioration in the patient's life / health or alleviate otherwise uncontrollable pain. It goes on to confirm you must be able to justify your actions and must document your relationship and the emergency circumstances that necessitated your prescribing a controlled drug for someone close to you. In addition, the panel was not satisfied that it had seen or heard any cogent evidence to suggest that on each and every occasion that Mrs Groves generated a prescription for codeine it was then signed off by a GP.

The panel considered Patient K's medical records which evidenced that Mrs Groves had generated a significant number of prescriptions for codeine over several years commencing in 2016. The panel heard evidence that the code '*ETP FP10*' denoted an acute rather than repeat prescription. The panel bore in mind that it heard cogent evidence from Witness 4 that Mrs Groves was circumventing the repeat prescription process by generating the codeine prescriptions as acute prescriptions. The panel heard evidence that acute prescriptions are not subject to the same safeguards as the repeat prescription process. Acute prescriptions are intended to treat acute conditions and are only prescribed for a short period. It is only repeat prescriptions which are subject to an annual review by the GP. Consequently, it was not in Mrs Groves' sphere of competence to prescribe codeine as it is a controlled drug, and it should only be prescribed by a GP. The panel noted that in Patient K's notes there are a number of entries where a prescription for codeine has been generated by Mrs Groves without being linked to any consultation by her.

The panel considered the evidence before it. It determined that between 2015 and 17 September 2019 on more than one occasion, Mrs Groves generated prescriptions for patients when she had not examined the patient. The panel therefore found charge 1c proved.

Charge 1d

"1) Between 2015 and 17 September 2019 on more than one occasion:

d) Accessed your own medical records in breach of company policy;"

This charge is found PROVED.

[PRIVATE]

The panel therefore found charge 1d proved.

Charge 1e

"1) Between 2015 and 17 September 2019 on more than one occasion:

e) Generated prescriptions for your own use without obtaining the necessary authorisation from a GP"

This charge is found PROVED.

[PRIVATE]

The panel therefore found charge 1e proved.

Charge 1f

"1) Between 2015 and 17 September 2019 on more than one occasion:

f) Failed to maintain professional boundaries in that you inappropriately treated the following patients who were related to you:

i) Patient J
ii) Patient K
iii) Patient L
iv) Patient M
v) Patient N"

This charge is found PROVED.

[PRIVATE]

The panel therefore finds charge 1f proved.

Charge 1g

"1) Between 2015 and 17 September 2019 on more than one occasion:

g) Prescribed inappropriately high quantities of Codeine to Patient K."

This charge is found PROVED.

In reaching this decision, the panel took into account the evidence referred to in charge 1c.

In addition, the panel noted that Mrs Groves was not allowed to prescribe any medication prior to 12 September 2018. After this date, Mrs Groves was only allowed to prescribe in her sphere of competence, namely for minor illnesses, as she had obtained a non-medical prescribing qualification. Mrs Groves should not have been prescribing controlled drugs.

The panel considered Patient K's medical records. It noted that Mrs Groves did not record any consultations with Patient K in their medical records. It noted that Mrs Groves has generated a number of acute prescriptions for codeine. The panel bore in mind that it heard cogent evidence from Witness 4 and Witness 2 that Mrs Groves was circumventing the repeat prescription process by generating the codeine prescriptions as acute prescriptions.

The panel noted the entry on Patient K's medical notes, dated 12 February 2018, which states *'Codeine 30mg tablets – 100 tablet – take one or two up to 4 times /day Ended 25 February 2018 Reauthorised by Nina Groves'.* The panel noted that the prescription had been reviewed and stopped by the GP. However, Mrs Groves then reauthorised the prescription without any apparent review logged in the medical records.

The panel had regard to Witness 5's evidence. In her oral evidence she was asked why this level of prescriptions for codeine was inappropriate. Witness 5 said that the frequency, quantity and dosage of codeine tablets prescribed over the number of years documented in the medical records with no apparent reviews was not safe as it is addictive and has a number of side effects with prolonged use. She also said that it would not be suitable for treating a chronic condition.

The panel considered the evidence before it. The panel bore in mind that codeine, a controlled drug, was significantly out of Mrs Groves' sphere of prescribing competence and that she should not have been generating prescriptions for this medication for Patient K. It noted that Mrs Groves generated prescriptions for codeine for Patient K both prior to and after obtaining her non-medical prescribing qualification. The panel determined that Mrs Groves had circumvented the prescribing process and she had prescribed a large

quantity of high dosage codeine, often with only short intervals between prescriptions and had done this for several years. The panel determined that between 2015 and 17 September 2019 on more than one occasion Mrs Groves prescribed inappropriately high quantities of Codeine to Patient K. The panel therefore found charge 1g proved.

Charge 2

> "2) On 23 August 2019 prescribed 28 tablets of Diazepam to Patient O without the necessary authorisation from a GP."

This charge is found PROVED.

In reaching this decision, the panel took into account the evidence of Witness 4, Witness 3 and the responses to the allegations provided on Mrs Groves' behalf dated 31 August 2021.

The panel considered evidence of Witness 4. In her NMC statement, she states *'Controlled drug prescriptions require approval by a General Practitioner before being issued. … In addition, it came to my attention during the investigation that Nina had prescribed diazepam, another controlled drug to Patient O on 23 August 2019 without approval by a GP.'*

The panel had regard to Patient O's Consultation Information Sheet, a written record of Mrs Groves' consultation with Patient O, which did not document that Mrs Groves had sought authorisation from the duty GP that Patient O could be prescribed 28 tablets of diazepam.

The panel considered the oral evidence of Witness 3. She noted Patient O had complained of a headache on the patient notes and whilst Patient O appeared to want a prescription for diazepam, this was not within Mrs Groves' sphere of competency and Mrs Groves should have referred this patient to the duty general practitioner.

The panel had regard to Mrs Groves' response in the RCN letter dated 31 August 2021, who represented her at that time. The letter states:

> *'Patient O … Our member recalls she was suffering from neck pain. Our member discussed this with one of the GPs who advised our member to add [Patient O] as a temporary patient of the medical centre. This is not something our member could do without direct GP authorisation. Our member accepts her error in not recording the conversation she had with the GP about this prescription.'*

The panel considered the evidence before it. The panel determined on the balance of probabilities, on 23 August 2019, Mrs Groves prescribed 28 tablets of Diazepam to Patient O without the necessary authorisation from a GP. The panel therefore found charge 2 proved.

Charge 3

> "3) On 30 August 2019 inappropriately asked Colleague 1 to generate prescriptions of controlled drugs for your own personal use."

This charge is found PROVED.

[PRIVATE]

The panel therefore found charge 3 proved.

Charge 4

> "4) Your actions in charge 1) a) above were dishonest in that you knew the second and/or subsequent appointments were not necessary and you

intentionally failed to notify the patients of these appointment in order to create more free time in your diary."

This charge is found PROVED.

In reaching this decision, the panel took into account the evidence outlined at charge 1a.

The panel had regard to Colleague 1's evidence. In a local statement to the CMC, dated 2 September 2019, she stated '*Nina stated you can leave that slot booked and you will not have to see me as we have already sorted the issue*'. Further, in her NMC witness statement, she also stated *'After the prescriptions had been printed and signed, Nina told me that she had booked the 4.30pm slot in my diary on System One, but I would not have to see her then and could have free time instead…. However, it was not correct procedure for a practitioner to book themselves into another practitioners' diary during business hours as those time slots were reserved for patients.'*

The panel considered the evidence of Witness 2. In her NMC statement, she stated *'Our system will automatically send out a notification of an upcoming appointment to the patient within 48 hours of the appointment time when booked by reception. If the appointment is booked less than 48 hours in advance, the receptionist or clinician booking the appointment is advised to select a tick box on the system which sends the patient an SMS text reminder / confirmation immediately. I found that Nina was booking appointments less than 48 hours in advance, mainly on the same day, and not ticking the relevant notification box. This meant that patients were not aware of the appointments and would therefore be DNA or unaware they had a booking.'*

The panel considered the email circulated to staff at CMC by Witness 2 on 26 June 2019, which states *'Could I please remind all that the process for blocking time out requires prior approval with YOUR team Leads and / or [Witness 4] and myself. We will then mark this out for you. At the moment we are noting a lot of textual blocking by staffs and need to*

ensure this is both necessary and at a suitable time for ensuring capacity of appointments.'

The panel took into account the User Logins exhibited by Witness 2. These logs show how long Mrs Groves had been logged in for. In Witness 2's NMC witness statement she stated *'I believe that Nina was booking additional appointments in order to have more free time, extended lunchbreaks and finish work early. Everyone has to log in and out of their computer system and sign in and out of the fire book whenever they enter and leave Clee. By not logging off, it would be assumed Nina was still working but we had suspicions she was not and had left the building. I was notified by staff several times that they had gone to look for Nina, but she was not in the building.'*

The panel had regard to the evidence of Witness 5. In her NMC statement she said *'It was known by all the employees at CMC that blocking out appointments without authorisation was not permitted… One day when I was still fairly new, a patient came in for a standard 15 minute appointment, but had numerous issues so the appointment went overtime. Nina had come into my room to give me some guidance on the patient and when I told her I was now running late for my other appointments she told me to just block an afternoon slot. I told her I shouldn't do that and she encouraged me to do it saying the management staff "won't check on you". As an experienced member of staff she should not be encouraging others to be dishonest.'*

In Witness 5's documentary evidence, she said of Mrs Groves *'Routinely blocks out the last appointment of the day with a patient again that she has booked herself and arrives and finished said patient (not been seen by reception), if entering her room at this time she will be sat with her equipment away, window shutters down and will be ready for going home. This is usually done within the first hour of her shift.'*

The panel had regard to Mrs Groves response in the RCN letter dated 31 August 2021, who represented her at that time. The letter states:

‘As the Case Examiners will note from our member’s reflection, she can see, with the benefit of hindsight, that this was not best practice as it has given the impression that she was seeing patients again when in fact what she was doing was continuing with the outstanding work that she has not been able to conclude in the allotted time when she was face to face with the patient.

Our member has learnt from this and going forward would not deal with this issue in the same way. She would seek assistance and request longer time and ensure that all appointments and documentation were completed straight way [sic] and if this was not possible, she would book time out as administrative time in order to complete any outstanding actions from the appointment.’

The panel bore in mind that an email had been circulated to staff about only booking double appointments when it was necessary and there was an authorisation process to do this. The panel noted there were no patient records to justify the patient appointments. The panel was of the view that Mrs Groves knew what she was doing by deliberately leaving her computer logged in and booking double appointments for patients she had seen that day already. The panel was of the view that Mrs Groves’ conduct underlying this charge was dishonest and intended to mislead, there was no evidence of any alternative innocent explanation. It noted that Mrs Groves conduct persisted over a period time. The panel also noted Mrs Groves comments to Witness 5 about management staff ‘*not checking*’ and this indicated that Mrs Groves knew the correct procedures for multiple bookings but chose not to follow them. The panel determined that an ordinary, reasonable, decent person would find Mrs Groves’ conduct underlying this charge to be dishonest.

The panel determined that Mrs Groves actions in charge 1) a) above were dishonest in that she knew the second and/or subsequent appointments were not necessary and intentionally failed to notify the patients of these appointment in order to create more free time in her diary. The panel therefore found charge 4 proved.

Charge 5

> "5) Your actions in charge 1) b) above were dishonest in that you knew the patients had not attended for appointments."

This charge is found PROVED.

In reaching this decision, the panel also took into account the evidence and its findings outlined at charge 1b.

The panel bore in mind the evidence from Witness 4, Witness 3 and Witness 5. It noted that Mrs Groves would have to click through the coloured coded appointment system to indicate that a patient had arrived, been seen and their appointment completed. This would should show on the system that the patients had attended their appointments at the CMC.

The panel considered the evidence of Witness 3. It noted that in her NMC witness statement she said *'My list of patients and Nina's list of patients would be right next to each other on the booking system, so I could see her appointment bookings. One day I noticed that the system showed Nina had five patients waiting for her and I had a free slot, so I went to the waiting room to help Nina by seeing one of her patients for her. It is common for practitioners to assist each other in this way. Once I entered the waiting room I saw that there were not any patients waiting. I went back to my room and checked the system again and noticed that on the Appointment Ledger it showed that all the patients who had been waiting a few minutes earlier had been seen and finished by Nina which was not possible.'*

The panel considered the evidence of Witness 2. In her NMC statement, she stated *'Our system will automatically send out a notification of an upcoming appointment to the patient within 48 hours of the appointment time when booked by reception. If the appointment is*

booked less than 48 hours in advance, the receptionist of clinician booking the appointment is advised to select a tick box on the system which sends the patient an SMS text reminder / confirmation immediately. I found that Nina was booking appointments less than 48 hours in advance, mainly on the same day, and not ticking the relevant notification box. This meant that patients were not aware of the appointments and would therefore be DNA or unaware they had a booking.' Witness 2 said in her oral evidence that patients were unaware of the appointments as Mrs Groves had not clicked the box to send patients a notification of their appointment. The panel was of the view that this indicated that Mrs Groves deliberately did not notify patients of their appointments and knew that the patients would not attend the appointments she had scheduled.

The panel considered the email circulated to staff at CMC by Witness 2 on 26 June 2019, which states *'Could I please remind all that the process for blocking time out requires prior approval with YOUR team Leads and / or [Witness 4] and myself. We will then mark this out for you. At the moment we are noting a lot of textual blocking by staffs and need to ensure this is both necessary and at a suitable time for ensuring capacity of appointments.'*

The panel took into consideration that conduct underlying this charge required some deliberate action from Mrs Groves. The panel heard evidence that Mrs Groves had repeated this conduct on multiple occasions despite having training on the system and being informed of how to use the system in team meetings. The panel determined that Mrs Groves had not clicked through the system erroneously. The panel was of the view that Mrs Groves' conduct underlying this charge was to mislead and the intention behind it was for her to gain time for herself. It noted that these appointments would be booked around her lunch breaks, and at the beginning and end of the day to potentially reduce her workload.

The panel took into consideration that Mrs Groves accepted that the patients did not arrive for their appointments but does not accept that her conduct was dishonest. The panel noted that Mrs Groves' case is that she kept the duplicate appointment bookings in to

allow her time to catch up on her administrative tasks. However, the panel heard evidence from numerous witnesses that there was adequate time in the appointment system and that there was a process in place at the CMC if further time was required to catch up on administrative tasks. The panel was of the view that Mrs Groves chose not to follow this process.

The panel was of the view that a reasonable member of the public would find these actions dishonest.

The panel determined that Mrs Groves actions in charge 1) b) above were dishonest in that she knew the patients had not attended for appointments. The panel therefore finds charge 5 proved.

Decision and reasons for an interim order at adjournment

As the hearing has not yet concluded and was going to be adjourned part heard, the panel was required to consider whether to impose an interim order on Mrs Groves' NMC registration.

Mr Khan invited the panel to impose an interim suspension order for a period of 18 months in view of its findings on facts. He submitted that it was necessary on the grounds of public protection and public interest. He submitted that the interim order was necessary on the grounds of public protection given the clinical concerns identified in this case and that the interim order was otherwise in the public interest as a fully informed member of public would be concerned to learn that a registered nurse on the facts found proved in this case was allowed to practise with no restrictions.

The panel accepted the advice of the legal assessor and took account of the guidance issued by the NMC to panels considering interim orders and the appropriate test as set out at Article 31 of the 'Nursing and Midwifery Order 2001' (the Order). The panel may only

make an interim order if it is satisfied that it is necessary for the protection of the public; that it is otherwise in the public interest or that it is in Mrs Groves' own interest.

In reaching its decision on whether to impose an interim order, the panel had regard to the reasons set out in its decision on the facts. It noted that the imposition of an interim order is not an automatic outcome but it also had regard to Article 31 of the Order and the NMC's guidance on interim orders.

The panel first considered whether an interim order was necessary. The panel considered that it was necessary to make an interim order on the grounds of public protection given the seriousness of the facts found proved and that they relate to Mrs Groves' clinical practice.

The panel next considered that some form of interim order is otherwise in the public interest, in order to maintain confidence in the profession and the NMC as regulator. The panel determined that a fully informed member of the public would be concerned to learn that a registered nurse is allowed to practise with no restrictions on their NMC registration in light of the findings of fact in this case.

The panel next considered an interim conditions of practice order and in all the circumstances determined that such an order would be insufficient to protect the public and to meet the wider public interest considerations of this case. The panel was not satisfied that an interim conditions of practice order could be devised which would be sufficient to protect the public given the seriousness of the facts found proved including two charges of dishonesty. The panel was of the view that the charges found proved suggested an attitudinal concern which could not be addressed by an interim conditions of practice order.

The panel is satisfied that, in the particular circumstances of this case, an interim suspension order is appropriate and proportionate. It has decided to make this interim suspension order for a period of 18 months.

That concludes this determination.

This decision will be confirmed to Mrs Groves in writing.

This hearing went adjourned part heard on 21 November 2023 and resumed on 30 November 2023 for panel deliberations only. On 12 April 2024, this hearing resumed and the following decisions were handed down.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Mrs Groves' 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 ability to practise kindly, safely and professionally.

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, Mrs Groves' fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

Mr Ashraf referred the panel 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.'* He also referred the panel to the judgements in the cases of *Remedy UK Ltd, R (on the application of Remedy UK Ltd) v General Medical Council* [2010] EWHC 1245 (Admin), *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), *Lawrence v General Medical Council* [2012] EWHC 464 (Admin).

Mr Ashraf invited the panel to take the view that the facts found proved amount to misconduct. He referred the panel to 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015)' (the Code) in making its decision and identified the specific, relevant standards where Mrs Groves' actions amounted to misconduct.

Submissions on impairment

Mr Ashraf 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. He referred the panel to the relevant NMC guidance and the judgment in the case of *R (on the application of Young) v General Medical Council* [2021] EWHC 534 (Admin).

Mr Ashraf outlined Dame Janet Smith's "test" referred to in the judgment of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin) and applied it to the facts of this case. He submitted all four limbs of the test were engaged in this case and that the misconduct in this case related to fundamental aspects of nursing practise. He submitted that Mrs Groves' failings fell far below the standards expected of a registered nurse and represent an abuse of her position of authority and trust indicating an underlying attitudinal problem. He submitted given the circumstances of this case; the concerns identified are difficult to remediate.

Further, he submitted that Mrs Groves' conduct was repetitive and took place over a prolonged period.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments.

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. It considered each charge individually before considering them collectively.

The panel determined that Mrs Groves actions in charge 1a of making multiple bookings for the same patients on the same day when they were not clinically justified was serious enough to amount to misconduct. The panel was of the view that booking these appointments could have serious implications for patients as their records would have inaccurate information recorded about multiple appointments they had not attended. Mrs Groves' actions also may have had an impact on her colleagues who would have been taking on additional patients whom Mrs Groves could have seen and that this use of time could have been put to proper use elsewhere within the medical practice.

The panel determined that Mrs Groves actions in charge 1b, where she made entries in patient records indicating they had attended for appointments when they had not, was serious enough to amount to misconduct. The panel took into account that the entries made in the patients' medical records would contain information which was wrong and may have misled Mrs Groves' former colleagues at the medical practice when reviewing the patient records. By recording those patients had attended for appointments when they had not was potentially dangerous and presented a potential risk of harm to the patient's safety.

The panel determined that Mrs Groves actions in charge 1c, of generating prescriptions for patients when she had not examined them, was serious enough to amount to misconduct. The panel took into account that the conduct underlying this charge presented a real risk of serious harm to the patients. The panel considered the importance of examining a patient before generating a prescription.

The panel was not satisfied that Mrs Groves actions in charge 1d, where she accessed her own medical records in breach of company policy, was serious enough to amount to misconduct.

The panel determined that Mrs Groves actions in charge 1e, where she generated prescriptions for her own use without obtaining the necessary authorisation from a GP, was serious enough to amount to misconduct. The panel bore in mind that Mrs Groves generated prescriptions which included controlled drugs. It also noted the quantities of controlled drugs which she prescribed for herself. It noted the evidence it heard in relation to how Mrs Groves generated her prescriptions and how she circumvented the practice's process to generate herself a prescription. The panel bore in mind the evidence it heard that it was not in Mrs Groves' sphere of competence to generate prescriptions for controlled drugs and it was entirely inappropriate to do so for herself. The panel bore in mind that it had no information that Mrs Groves appreciated the impact of her actions, underlying this charge, on her colleagues.

The panel determined that Mrs Groves actions in charge 1f, where she failed to maintain professional boundaries in that she inappropriately treated patients who were related to her, was serious enough to amount to misconduct. The panel bore in mind that it heard evidence that the general position at the practice is for staff not to treat themselves or relatives as *'it is difficult to stay objective'*.

The panel determined that Mrs Groves' actions in charge 1g, where she prescribed inappropriately high quantities of Codeine to Patient K, was serious enough to amount to misconduct. The panel took into consideration the evidence it heard that it was not in Mrs Groves' sphere of competence to generate prescriptions for controlled drugs. The panel

considered the evidence it heard that codeine is an addictive drug and is prone to misuse. The panel took into consideration the potential risk of harm to Patient K in light of the close familial relationship between Patient K and Mrs Groves, and the potential difficulty to remain objective in these circumstances. The panel noted that there was no GP review of the continuous issuing of prescriptions for codeine by Mrs Groves and that this had the potential to cause harm to Patient K.

The panel determined that Mrs Groves actions in charge 2, where she prescribed 28 tablets of Diazepam to Patient O without the necessary authorisation from a GP, was serious enough to amount to misconduct. The panel took into consideration the evidence it heard that it was not in Mrs Groves' sphere of competence to generate prescriptions for controlled drugs and that she did not consult the Practice GP about this prescription. The panel considered the evidence it heard that Diazepam is an addictive drug and is prone to misuse. The panel noted the large quantity of Diazepam which was prescribed to a new patient of the practice. The panel was of the view that Mrs Groves' actions underlying this charge had the potential to cause a risk of harm to Patient O.

The panel determined that Mrs Groves actions in charge 3, where she inappropriately asked Colleague 1 to generate prescriptions of controlled drugs for Mrs Groves' personal use, was serious enough to amount to misconduct. The panel took into account the evidence it heard that Mrs Groves intimidated Colleague 1 to generate a prescription and targeted Colleague 1 as she was a new and junior member of staff. The panel considered that Mrs Groves put Colleague 1 in an intolerable and stressful position as it appeared that Colleague 1 had prescribed controlled drugs which are outside of her sphere of competence. The panel noted that Mrs Groves circumvented the practice's process of prescribing her own prescriptions by using someone else's computer login to generate the prescription.

The panel determined charge 4 which outlined that Mrs Groves actions in charge 1a were dishonest, as she knew the second and/or subsequent appointments were not necessary and intentionally failed to notify the patients of these appointments in order to create more free time in her diary, was serious enough to amount to misconduct. The panel had regard

to its finding that charge 1a was serious enough to amount to misconduct. It noted that Mrs Groves took actions which deliberately led to the dishonesty which underlies charge 1a and it noted the potential risk of harm caused by Mrs Groves' actions in spite of being told by the management of the practice not to do so.

The panel determined charge 5 which outlined that Mrs Groves actions in charge 1b were dishonest, in that she knew the patients had not attended for appointments, was serious enough to amount to misconduct. The panel had regard to its finding that charge 1b was serious enough to amount to misconduct. It noted that Mrs Groves took actions which deliberately led to the dishonesty which underlies charge 1b and it noted the potential risk of harm caused by Mrs Groves' actions.

The panel also considered all the charges together and was of the view that Mrs Groves' conduct demonstrated a general pattern of disregard in relation to the instructions of the practice, which also amounted to misconduct.

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

> ***'1 Treat people as individuals and uphold their dignity***
> *To achieve this, you must:*
> *1.1 treat people with kindness, respect and compassion*
> *1.2 make sure you deliver the fundamentals of care effectively*
>
> ***2 Listen to people and respond to their preferences and concerns***
> *To achieve this, you must:*
> *2.1 work in partnership with people to make sure you deliver care effectively*
>
> ***3 Make sure that people's physical, social and psychological needs are assessed and responded to***
> *To achieve this, you must:*

3.1 pay special attention to promoting wellbeing, preventing ill health and meeting the changing health and care needs of people during all life stages

8 Work co-operatively

To achieve this, you must:

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

8.2 maintain effective communication with colleagues

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

9 Share your skills, knowledge and experience for the benefit of people receiving care and your colleagues

To achieve this, you must:

9.2 gather and reflect on feedback from a variety of sources, using it to improve your practice and performance

9.3 deal with differences of professional opinion with colleagues by discussion and informed debate, respecting their views and opinions and behaving in a professional way at all times

10 Keep clear and accurate records relevant to your practice

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

To achieve this, you must:

10.3 complete records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements

18 Advise on, prescribe, supply, dispense or administer medicines within the limits of your training and competence, the law, our guidance and other relevant policies, guidance and regulations

To achieve this, you must:

18.1 prescribe, advise on, or provide medicines or treatment, including repeat prescriptions (only if you are suitably qualified) if you have enough knowledge of that person's health and are satisfied that the medicines or treatment serve that person's health needs
18.2 keep to appropriate guidelines when giving advice on using controlled drugs and recording the prescribing, supply, dispensing or administration of controlled drugs
18.5 wherever possible, avoid prescribing for yourself or for anyone with whom you have a close personal relationship

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
20.3 be aware at all times of how your behaviour can affect and influence the behaviour of other people
20.5 treat people in a way that does not take advantage of their vulnerability or cause them upset or distress
20.8 act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to'

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel considered was of the view that Mrs Groves' actions did fall seriously short of the conduct and standards expected of a nurse and therefore amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Mrs Groves' fitness to practise is currently impaired.

In coming to its decision, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which states:

> *'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?"*
> *If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not 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 determined that limbs a, b, c and d of the "test" outlined in *Grant* are engaged.

The panel finds that patients were put at risk of harm as a result of Mrs Groves' misconduct and dishonesty. It noted that there was a particular occasion where a vulnerable patient at end of life was put at risk of harm. Mrs Groves' misconduct had breached the fundamental tenets, of honesty and integrity, of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty be serious.

Regarding insight, the panel considered the material submitted to the NMC by Mrs Groves' former representatives at the RCN. It took into consideration that Mrs Groves appeared to have accepted some of the charges which have been found proved. However, it noted that she had not demonstrated any insight into the seriousness of the

charges which relate to generating prescriptions for controlled drugs and generating prescriptions for patients who she had not examined. It noted that Mrs Groves' misconduct persisted even when the management of the practice addressed their concerns with her. The panel took into account that Mrs Groves has not demonstrated that she understands the impact and the seriousness of her actions in relation to her patients and the effect it would have on her patients, colleagues and the reputation of the nursing profession. It noted that Mrs Groves has not demonstrated a deeper level of reflection or understanding of why her misconduct occurred and what steps she would take in the future.

The panel considered that the charges in relation to dishonesty are difficult to remediate. The panel carefully considered the evidence before it in determining whether or not Mrs Groves has taken steps to strengthen her practice. The panel took into account Mrs Groves' reflective statement. The panel was of the view that Mrs Groves did not recognise the seriousness of her actions or address why her conduct persisted over a prolonged period of time. The panel was of the view that Mrs Groves' conduct was attitudinal in nature. On this basis, it concluded that there is a real risk of repetition. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel determined that a finding of impairment on public interest grounds is required because a fully informed member of the public would be concerned to learn that a registrant with the charges found proved in this case, limited insight and a lack of strengthened practice was allowed to practise with no restrictions on their nursing registration.

In addition, the panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Mrs Groves' fitness to practise impaired on the grounds of public interest.

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

Decision and reasons on service of Notice of Resuming Hearing

The panel was informed at the start of this hearing that Mrs Groves was not in attendance and that the Notice of Resuming Hearing letter had been sent to Mrs Groves' registered email address by secure email on 19 March 2024.

Mr Kennedy, on behalf of the NMC, submitted that it had complied with the necessary Rules.

The panel accepted the advice of the legal assessor in that there was no formal notice requirement for resuming hearings as per Rule 32(3).

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 Mrs Groves' right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all of the information available, the panel was satisfied that Mrs Groves has been served with the Notice of Hearing in accordance with the requirements of Rule 32.

Decision and reasons on proceeding in the absence of Mrs Groves

The panel next considered whether it should proceed in the absence of Mrs Groves. It had regard to Rule 21 and heard the submissions of Mr Kennedy who invited the panel to continue in the absence of Mrs Groves.

Mr Kennedy submitted that there had been no engagement at all by Mrs Groves with the NMC 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.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised *'with the utmost care and caution'*.

The panel has decided to proceed in the absence of Mrs Groves. In reaching this decision, the panel has considered the submissions of Mr Kennedy, 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* and had regard to the overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Mrs Groves;
- Mrs Groves has not engaged with the NMC since August 2021 and has not responded to any of the letters sent to her about this resuming hearing;
- Mrs Groves did not attend the substantive hearing in November 2023;
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- The charges relate to events that occurred between 2015 and 2019;
- There is a strong public interest in the expeditious disposal of the case and it is also in Mrs Groves' interest to conclude this case.

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

Sanction

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

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

Submissions on sanction

Mr Kennedy informed the panel that in the Notice of Hearing, dated 9 October 2023, the NMC had advised Mrs Groves that it would seek the imposition of a 12-month suspension order with review if it found Mrs Groves' fitness to practise currently impaired.

Mr Kennedy indicated that during the course of these proceedings, the NMC had revised its proposal due to Mrs Groves' lack of engagement and the lack of information to suggest that she has developed any insight or shown any remorse for her actions. He submitted that in these circumstances, a striking-off order is more appropriate.

Mr Kennedy proposed that the following aggravating features were present in this case:

- There was a breach of a position of trust;
- Mrs Groves' dishonesty carried on over a lengthy period of time;
- Mrs Groves' actions involved a large number of patients;
- There was a serious risk of harm to patients;
- Mrs Groves has not shown insight or remorse into her actions;

- Mrs Groves' behaviour is evidence of an attitudinal issue.

Mr Kennedy submitted that by way of mitigation, there was no known patient harm.

Mr Kennedy referred the panel to the NMC guidance on '*Considering sanctions for serious cases*' and he highlighted the areas of Mrs Groves' conduct that were of particular concern.

Mr Kennedy submitted that Mrs Groves' behaviour fell substantially below the standards expected of a registered nurse. Mr Kennedy submitted that Mrs Groves' actions have damaged the reputation and standing of the nursing profession. He submitted that Mrs Groves has shown no insight into her behaviour and has not done anything to remediate her conduct or her deep-seated attitudinal issue to give the panel confidence that she will be a caring professional nurse in the future. Mr Kennedy submitted that Mrs Groves' misconduct was not easy to remediate.

Mr Kennedy submitted that on this basis, Mrs Groves' removal from the NMC register was necessary, although it was entirely a matter for the panel to decide on the appropriate disposal.

The panel accepted the advice of the legal assessor.

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- Mrs Groves' conduct put patients at a high risk of harm.
- There has been a lack of effective engagement with this process since the start of this substantive hearing.
- The panel noted Mrs Groves' untested and uncorroborated reflective piece dated 25 August 2021 and the letter from her former representatives at the RCN dated 31 August 2021. It did not consider that Mrs Groves had provided evidence of genuine and real insight, remorse or reflection into her misconduct, nor the impact of her misconduct on patients, colleagues and the nursing profession.
- There were concerns about Mrs Groves' level of professionalism.
- Mrs Groves abused and breached a position of trust.
- There was a pattern of misconduct, including dishonesty, which took place over a prolonged period of time and affected numerous patients.
- Vulnerable patients, including a patient at the end of their life, were affected by Mrs Groves' misconduct.
- The nature of Mrs Groves' misconduct and her non-engagement with these proceedings demonstrates an attitudinal problem.
- Mrs Groves' actions were deliberate and pre-meditated.
- Mrs Groves' actions were self-serving, in that she gained unreviewed access to controlled drugs and extra time to herself during the working day.

The panel also took into account the following mitigating features:

- There was no known patient harm.
- There was qualified acceptance of some aspects of the charges.

In considering the seriousness of Mrs Groves' dishonesty, the panel had regard to the NMC guidance on '*Considering sanctions for serious cases*' which stated:

‘*Honesty is of central importance to a nurse, midwife or nursing associate’s practice. Therefore allegations of dishonesty will always be serious and a nurse, midwife or nursing associate who has acted dishonestly will always be at some risk of being removed from the register. However, in every case, the Fitness to Practise Committee must carefully consider the kind of dishonest conduct that has taken place. Not all dishonesty is equally serious. Generally, the forms of dishonesty which are most likely to call into question whether a nurse, midwife or nursing associate should be allowed to remain on the register will involve:*

- *deliberately breaching the professional duty of candour by covering up when things have gone wrong, especially if it could cause harm to people receiving care*
- *misuse of power*
- *vulnerable victims*
- *personal financial gain from a breach of trust*
- *direct risk to people receiving care*
- *premeditated, systematic or longstanding deception*

Dishonest conduct will generally be less serious in cases of:

- *one-off incidents*
- *opportunistic or spontaneous conduct*
- *no direct personal gain*
- *incidents outside professional practice’*.

The panel considered that four of the criteria indicating serious dishonesty (excluding deliberately breaching the professional duty of candour and personal financial gain) are engaged in this case, and that none of the criteria indicating less serious dishonesty apply.

The panel accepted Mr Kennedy’s submissions in respect of these criteria.

The panel considered that Mrs Groves used her position of trust as a nurse to acquire controlled drugs, and in doing so misused her power. It noted that Mrs Groves prescribed controlled drugs using another nurse' computer login to make it look as though they had prescribed the drug, and she also excessively prescribed codeine for [PRIVATE].

The panel took into account that that CMC had vulnerable patients who would have missed appointments because of Mrs Groves' behaviour. The panel considered that Mrs Groves' actions caused direct risk to patients who needed care and, in one instance, end of life care. It also noted that Mrs Groves' dishonesty was pre-meditated and took place over a sustained period of time.

The panel was therefore satisfied, on the guidance, that the dishonesty in this case was very serious.

The panel then considered what sanction, if any, to impose in this case.

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

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mrs Groves' 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 Mrs Groves' 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 Mrs Groves' registration would be a sufficient and appropriate response. The panel was of the view that there were no practical or workable conditions that could be formulated, given the nature of the charges found proved and the very serious underlying attitudinal concerns. The panel determined that the misconduct identified in this case was not something that can be addressed through retraining. The panel also considered that were it to formulate conditions of practice in an attempt to mitigate the risks identified, these conditions would be tantamount to suspension.

Furthermore, the panel concluded that the placing of conditions on Mrs Groves' 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 a 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 noted that Mrs Groves' actions were not a single instance of misconduct and that there was evidence of a deep-seated attitudinal problem. The panel considered that whilst there was no information before it to suggest that there had been repetition of Mrs Groves' behaviour since 2019, the misconduct itself took place between 2015 and 2019. The panel had sight of Mrs Groves' reflective piece dated 25 August 2021 and the letter from her former representatives at the RCN dated 31 August 2021. However, it was not

satisfied that Mrs Groves had insight, and it found that she poses a significant risk of repeating her behaviour.

Mrs Groves' conduct, as highlighted by the facts found proved, represented a significant departure from the standards expected of a registered nurse. The panel found that the serious breach of the fundamental tenets of the profession evidenced by Mrs Groves' actions is fundamentally incompatible with her 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?*

The panel considered that the regulatory concerns in this case raise fundamental questions about Mrs Groves' professionalism. The panel was of the view that public confidence in the profession would be undermined if Mrs Groves was not removed from the register. It was of the view that members of the public would be most concerned to learn that vulnerable patients were placed at risk of harm.

The panel concluded that a striking-off order is the only sanction which will be sufficient to protect patients, members of the public, and maintain professional standards because a lesser sanction would not reflect the seriousness of the misconduct in this case, nor address the ongoing risk of repetition identified by the panel.

Mrs Groves' actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with her remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Mrs Groves' actions were serious and to allow her to continue practising would undermine public confidence in the profession.

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

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

This will be confirmed to Mrs Groves in writing.

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Mrs Groves' own interests until the striking-off 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 Kennedy. He invited the panel to make an interim suspension order for a period of 18 months to cover any appeal period until the substantive striking-off order takes effect.

Decision and reasons on interim order

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months to ensure that Mrs Groves cannot practise unrestricted before the substantive striking-off order takes effect. This will cover the 28 days during which an appeal can be lodged and, if an appeal is lodged, the time necessary for that appeal to be determined.

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

That concludes this determination.