

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

**Substantive Hearing
Monday, 4 – Tuesday, 12 March 2024**

Virtual Hearing

Name of Registrant: **Abiola Akilla**

NMC PIN 96100150

Part(s) of the register: Registered Nurse – Adult (RN1)
5 September 1996

Relevant Location: Southwark

Type of case: Misconduct and Conviction

Panel members: Philip Sayce (Chair, registrant member)
Kathryn Smith (Registrant member)
Linda Redford (Lay member)

Legal Assessor: Charles Conway

Hearings Coordinator: Sharmilla Nanan

Nursing and Midwifery Council: Represented by Assad Badruddin, Case
Presenter

Mrs Akilla: Present and represented by Ray Short of Unison
(lay representative)

Facts proved by admission: Charges 1a and 1b
Charge 1 (conviction charge)

Facts proved: Charge 2

Fitness to practise: Impaired

Sanction: **Striking off order**

Interim order:

Interim Suspension Order (18 months)

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

At the outset of the hearing, Mr Badruddin, on behalf of the Nursing and Midwifery Council (NMC), made a request that parts of this case be held in private on the basis that proper exploration of your case involves reference [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Mr Short, on your behalf, 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 [PRIVATE] as and when such issues are raised in order to protect your right to privacy.

Details of charge

That you a registered nurse:

1. Did not disclose to TFS Healthcare during the recruitment process the fact that you were:

a. Subject to an NMC investigation.

b. Subject to an interim suspension order imposed by the NMC on 26 November 2020.

2. Your actions at charges 1, 1a and or 1b were dishonest in that you sought to conceal the fact you were subject to regulatory intervention by the NMC.

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

Admissions

At the outset of the hearing, the panel heard from Mr Short, who informed the panel that you made full admissions to charges 1a and 1b.

The panel therefore finds charges 1a and 1b proved in their entirety, by way of your admissions.

Background

The NMC received a referral on 27 January 2021 from TFS Healthcare. It is alleged that you failed to disclose to your prospective employer, TFS Healthcare, that you were subject to an investigation by the NMC and that you were subject to an interim suspension order which was imposed on 26 November 2020.

On 25 January 2021, Witness 1 interviewed you over the telephone for a health care assistant position. Witness 1 reviewed your curriculum vitae before the interview which showed that your last appointment was with St Bartholomew's Hospital Trust and ended in September 2020.

Witness 1 enquired why an experienced registered nurse was applying for a health care assistant role and whether there had been an error in the recruitment process or the booking for the right interview. You explained to Witness 1 that [PRIVATE] working as a registered nurse on a chemotherapy unit was not suitable at that time. You also said that you were taking an employment break.

Witness 1 alleged that you did not disclose that you had any issues with your former employers or any restrictions on your nursing practice imposed by the NMC. The NMC have not been able to obtain the application form from TFS Healthcare as they have not been able to locate it to present it during the NMC's investigation.

Following the interview, your information was checked, and it was discovered that you were subject to an interim suspension order and also under investigation by NMC.

It is alleged by the NMC that you deliberately withheld information regarding your NMC suspension and the investigation by the NMC as you wanted to secure employment as a healthcare assistant.

Decision and reasons on application to admit hearsay evidence

The panel heard an application made by Mr Badruddin under Rule 31 to allow two documents authored by Ms 2 into evidence. Namely, a pre-screening form and an email chain from staff at TFS Healthcare dated between 25-26 January 2021 both which were created during the course of business. Ms 2 was a recruitment consultant and regional manager at TFS Healthcare. Mr Badruddin submitted that despite numerous attempts to contact Ms 2 by email, the NMC had not been able to obtain a signed, written statement from her.

Mr Badruddin submitted that Witness 1 exhibited these documents with her statement and is attending the hearing. He noted that Witness 1 had been sent the emails authored by Ms 2 and could be tested about the information contained in these documents. He noted that the pre-screening form is a 'self-descriptive form' containing questions that are used by recruiters to gain scoping information from candidates and the information on this form could only have been provided by you. He submitted that the evidence is directly relevant to the charges and was completed over the phone with you prior to your interview with TFS Healthcare on 21 January 2021 all of which formed part of the recruitment process.

Mr Badruddin addressed the issue of fairness and submitted that these documents were not the sole and decisive evidence to support the remaining charge in light of your admissions. He reminded the panel of the evidence available. He applied the principles set out in *Thorneycroft v Nursing and Midwifery Council* [2014] EWHC 1565 (Admin) to the circumstances of this case.

Mr Short took the panel through the documents which the NMC sought to have admitted as hearsay evidence. He submitted that with regard to the pre-screening form, there is no evidence as to who created it as it is not signed or dated. He submitted that you maintain that you were not asked these questions and that admission of the documents deprived you of your ability to test the reliability of its contents directly with the person who completed the form. He submitted that without this document the dishonesty charge could not be substantiated. He submitted that the panel does have evidence of your honesty within your bundle as you provided clear responses when asked. He submitted that it would not be fair to allow the hearsay evidence.

The panel heard and accepted the legal assessor's advice on the issues it should take into consideration in respect of this application. This included that Rule 31 provides that, so far as it is 'fair and relevant', a panel may accept evidence in a range of forms and circumstances, whether or not it is admissible in civil proceedings.

The panel gave the application to admit Ms 2's hearsay evidence serious consideration. The panel noted that documents that Ms 2's had authored were done during the course of TFS Healthcare's business and were not personal documents she had created. The panel noted that Ms 2 had been contacted by email only and had not responded to any of the requests made to participate in the NMC's regulatory process. However, the panel did not consider that the NMC had made full and comprehensive attempts to engage Ms 2 with this process and noted that no reason as to why Ms 2 was not engaging with the NMC had been presented.

time, she was a Nurse interviewer
and interviewed you over the phone.

The panel also heard evidence from you under oath.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor which included the test for dishonesty as set out in *Ivey v Genting Casinos (UK) Limited* [2007] UK SC 67 and also the NMC's guidance as set out in DMA-8 "Making decisions on dishonesty charges and the professional duty of candour". It considered the witness and documentary evidence provided by both the NMC and you.

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

Charge 2

"Your actions at charges 1, 1a and or 1b were dishonest in that you sought to conceal the fact you were subject to regulatory intervention by the NMC."

This charge is found proved.

In reaching this decision, the panel took into account your oral evidence and the evidence of Witness 1.

The panel considered Witness 1's evidence. It noted that on the 'Pro forma questions' it stated:

"Is not currently wanting to work as a registered nurse because is specialised in oncology and [PRIVATE]. At the current time she would prefer not to work as a RGN but would like to keep her experience up by working as a HCA until she is confident to return to oncology".

Witness 1 said she asked you why you did not want to work as registered nurse and that you told her [PRIVATE].

The panel noted that some of the questions had been completed on the pre-screening form whilst others had been left blank. The panel noted that Ms 2 was not at the hearing to provide an explanation as to why this was the position. The panel determined to give it limited weight.

The panel considered your oral evidence. The panel took into consideration that you provided conflicting explanations during your evidence, and it was of the view that your accounts evolved during your oral evidence. It noted that you were not consistent in how you completed your application form. You initially said that you printed out the application form to complete it by hand, then stated that you were not sure, and then said it was an online form that consisted of many screens that you had to complete and submit. The panel preferred the evidence of Witness 1 in this regard, that an application form, which the panel had sight of as an example, would be provided to a candidate applying for roles at TFS Healthcare. The panel also noted your responses when asked about your suspension with the NMC were inconsistent and served to evolve during your evidence to support your assertion that you had not been dishonest and had not understood the impact a suspension had on your status as a registered nurse. The panel determined that a senior and experienced nurse with management responsibilities would have a clear understanding of the impact of a suspension on a registered nurse's professional standing and that, although their PIN was suspended, they remained bound by The Code.

In your oral evidence, you stated that you sought employment as a health care assistant to [PRIVATE]. The panel was of the view, that this was your reason to secure a job as soon as possible and by omitting this information to TFS Healthcare you would not have faced any obstacles to prevent you from obtaining work as a health care assistant.

The panel noted that you provided your CV to TFS Healthcare which outlined your experience as a nurse. The panel determined that you wanted TFS Healthcare to have

this information when you were applying for a role as a health care assistant and you had relied on your position as a registered nurse to demonstrate your suitability for the role you had applied for.

In light of your experience as a manager, the panel found your explanation implausible, that you did not know that you were under a duty of candour to disclose that you were subject to an NMC investigation and that you were subject to an interim suspension order imposed by the NMC.

The panel did not accept your explanation that you did not deliberately conceal information that you were subject to an NMC investigation and subject to an interim suspension order imposed by the NMC on 26 November 2020 because you considered you didn't have to as you were applying for a role of a health care assistant and not as a registered nurse. It also rejected your account that you believed you didn't have to disclose this information to Witness 1 as she never asked you directly.

The panel therefore found charge 2 proved.

Following its decision and reason on facts in relation to the misconduct charges, Mr Badruddin informed the panel that there is an additional charge that concerns your fitness to practise, and which needs to be considered at the hearing. This additional charge concerns a conviction that you received on 30 March 2022.

Conviction charge

That you a registered nurse

1. On 30 March 2022 was convicted at Basildon Crown Court of causing serious injury by dangerous driving.

And in light of the above your fitness to practise is impaired by reason of your conviction.

Background

The NMC received the referral on 3 November 2020 from Essex Police, who had disclosed that on 31 October 2020 you had been arrested and charged with a criminal offence.

You were stopped by a police officer after you had been caught speeding. You initially complied. However, shortly afterwards you reversed and drove out onto the road. You were instructed to stop again but you did not and drove over the police officer's ankle whilst you were making your getaway causing the officer to fall onto the ground and sustain a number of injuries including broken and bruised ribs. You were arrested later that day at your son's address.

On 30 March 2022, you were convicted of causing serious injury by dangerous driving and sentenced to 30 months imprisonment, a period of disqualification totalling a period of seven years and three months and a victim surcharge of £190.

In HHJ Leigh's sentencing remarks she stated:

"You were pulled over and everything is caught in graphic detail because her body-worn camera was going, as is standard procedure when officers are single-crewed. We see her pull you over, say, "Are you aware that you were doing 50 and that it was in fact a 40?" We see you talk to the officer. You say that the vehicle isn't yours, which was true, it was your son's vehicle, but you say that you are insured to drive it, which was a lie, because you weren't...

She put the speed camera on top of your car and, as she starts to do that, you reverse back. She tells you to stop because, as I said, the camera is on top of the car and you completely disregard what the officer is saying. You are arguing with her. It's not entirely clear what you're saying but you are and

then, for whatever reason, and what possessed you, you then drove forward. You drove over the officer...

Your own daughter, young daughter, was in the back of the car. You weren't insured. You have never taken a test. It was a police officer on duty in the execution of her duty. The purpose of why you drove away was to escape the stop because you knew that you shouldn't have been driving...

You're entitled to credit which is around about 23 per cent because it was not at the first available opportunity."

Decision and reasons on facts in relation to the conviction charge

Mr Short informed the panel that you made a full admission to the conviction charge.

The panel therefore finds the conviction charge proved in its entirety, by way of your admission and the production of the certificate of conviction.

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 in charges 1a, 1b and 2 and, if so, whether your fitness to practise is currently impaired. The panel also considered whether your fitness to practise is currently impaired by reason of your conviction. 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, the panel must decide whether, in all the circumstances, your fitness to practise is currently impaired as a result of your conviction and only, if the facts found proved amount to misconduct, of that misconduct.

Submissions on misconduct

Mr Badruddin 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.*'

Mr Badruddin invited the panel to take the view that the facts found proved in charges 1a, 1b and 2 amount to misconduct. He referred the panel to 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015)' (the Code) and identified the specific, relevant standards where your actions amounted to misconduct. He submitted that your actions during your recruitment process with TFS Healthcare and actions leading to your conviction raise fundamental concerns regarding your position as registered professional. He submitted that your actions during the recruitment process demonstrate calculated dishonesty. He submitted that the misconduct charges are directly linked to your position as a registered nurse as the duty of candour applies to registered nurses, whether they are treating patients or dealing with members of the public. In these specific circumstances, you were working with a recruitment agency to secure employment in a health care role.

Mr Short submitted that you accept your actions did fall below the standards expected of a registered nurse, and that you regret this very much.

Submissions on impairment

Mr Badruddin moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin) and submitted that all four limbs of *Grant* were engaged in this case.

Mr Badruddin submitted that you are impaired on the grounds of public protection and public interest. He noted that the conduct underlying the charges did not relate to any clinical concerns. However, he submitted that the concerns are directly related to the conduct expected of a registered nurse. You failed to disclose regulatory restrictions to a prospective employer and placed members of the public at a significant risk of harm. He submitted that your conduct undermined the NMC as a regulator and the trust that members of the public put into the nursing profession. He submitted that registered nurses hold a position of privilege in society as the nature of their work exposes them to the most vulnerable in society. As a result, nurses are held to a much higher standard than the average person and by disregarding the laws of the country you damage the views that members of the public have of the nursing profession. He submitted that you have demonstrated limited insight, remorse and remediation into the misconduct concerns and the risk of repetition is high in light of the conviction. He noted the reflection dated 1 March 2024 focuses on your personal circumstances and submitted that you have not demonstrated a meaningful level of insight into your actions and the impact on the police officer, the reputation of the nursing profession and nurses in general, and what members of the public would think of your conduct.

Mr Short referred the panel to your reflective statement and the testimonials provided on your behalf. He submitted that you accept that your actions did fall below the standards expected of a registered nurse. He acknowledged that your fitness to practise is currently impaired.

The panel accepted the advice of the legal assessor.

Decision and reasons on misconduct

When determining whether the facts found proved in charges 1a, 1b and 2, amount to misconduct, the panel had regard to the terms of the Code.

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

'20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

20.2 act with honesty and integrity at all times, 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

20.4 keep to the laws of the country in which you are practising

20.8 act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to

23 Cooperate with all investigations and audits

To achieve this, you must:

23.3 tell any employers you work for if you have had your practice restricted or had any other conditions imposed on you by us or any other relevant body'

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that your conduct was a serious departure from the standards expected of a registered nurse in that you did not disclose to

TFS Healthcare that you were subject to an NMC investigation and an interim suspension order. The panel noted that there is a duty on you to disclose this information to a potential employer and you must have known that duty. The panel determined that you placed your own needs before those of patients and the wider public when you omitted to provide this information to TFS Healthcare.

The panel took into consideration that your actions, underlying charges 1a, 1b and 2, deprived TFS Healthcare of making an informed decision regarding your recruitment. The panel took into account that TFS Healthcare took its responsibility, to ensure the safety and protection of their clients, seriously. On completing its checks following your interview, TFS Healthcare withdrew your 'cleared to progress' status and rejected to work with you any further on the basis of your dishonesty. The panel concluded that charges 1a, 1b and 2 individually and collectively amount to misconduct.

The panel, therefore, determined that your actions did fall seriously short of the conduct and standards expected of a nurse and amounted to serious misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct and conviction, your 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 finds that patients were put at risk of harm as a result of your actions in the misconduct charges 1a, 1b and 2, and that your actions underlying your conviction caused serious injuries to the police officer involved and put the public at risk of harm. The panel acknowledged that there were no concerns with your clinical practice. The panel noted that you have demonstrated dishonesty in both your misconduct and conviction charges, and it concluded that your conduct has breached the fundamental tenet of honesty in the nursing profession. By doing so, you have therefore brought the nursing profession into disrepute. The panel was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

Regarding insight, the panel took into account your admissions, the testimonials submitted on your behalf and that you accept that your fitness to practise is currently impaired. However, the panel considered your reflective statement and noted that you have focused on how your conduct has affected your personal circumstances. It also noted that you have not considered the impact of your actions, underlying your conviction, on the police officer you injured. The panel noted that you had been dishonest in your initial account to the police. The panel took into account that your reflective statement does not demonstrate an understanding of why what you did was wrong and how your conduct, underlying your actions in the misconduct and conviction charges, impacts negatively on the reputation of the nursing profession. Although the panel understood your explanations for your actions in the misconduct and conviction charges, it did not accept them as valid

excuses. Nor did it have any information as to how you would handle a similar situation in the future. The panel concluded that you have very limited insight.

The panel acknowledged that dishonesty is difficult to remediate. It noted that by driving without a licence or insurance your actions associated with the conviction put the public at risk of harm, injured a police officer and therefore the conviction charge along with the misconduct charges in this case are linked to both your personal and professional life. The panel carefully considered the evidence before it in determining whether or not you have taken steps to strengthen your practice. The panel took into account it has no information before it in which you have demonstrated any remediation in relation to your dishonest conduct. In the absence of any relevant remediation, in light of the charges found proved the panel could not see how a future employer could be satisfied that you were being truthful. On this basis, the panel 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 that the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that a finding of impairment on the ground of public interest is required, in light of your conviction. It also determined a finding of impairment on the ground of public interest is necessary in relation to your misconduct arising from charges 1a, 1b and 2. The panel was of the view that an informed member of the public would be concerned to learn that a nurse with the misconduct and conviction charges found proved, were to be allowed to practice with no restrictions on their NMC PIN. 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 on the grounds on both public protection and public interest.

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

Sanction

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

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

Submissions on sanction

Before the representatives provided the panel with their submissions on sanction, you addressed the panel. You stated that it is a shame that you are being judged without knowing the type of person you are. You accepted that it is the role of the panel to hold you accountable for your actions. [PRIVATE]. You stated that these actions were so out of your usual character. You referred the panel to the testimonials from people who have known you through the years and have worked with you. You noted that each testimonial has mentioned your caring, kind and honest nature and you drew the panel's attention to the caring and supportive work that you did while in prison serving your custodial sentence. You stated that you currently had a job as a health care support worker and continued to be an asset to the community. You stated that you wanted to contact the police officer after the incident to apologise, but you were told by your lawyers that you could not.

Mr Badruddin informed the panel that the sanction bid in this case is a striking off order and submitted that this order was the most appropriate and proportionate in the

circumstances. He provided the panel with the aggravating features of this case. He referred the panel to the other sanctions available and submitted why they were not appropriate in the circumstances. He referred the panel to the relevant NMC guidance. He submitted that your behaviour, as found proved in the charges, is sufficiently serious to be considered as being fundamentally incompatible with remaining on the NMC register. He submitted that on the grounds of public protection and public interest, confidence in the nursing profession and the NMC as a regulator would not be upheld unless you are removed from the NMC register.

Mr Short submitted you have expressed your deepest sympathy and profound apologies to the police officer you injured. He referred the panel to one of your testimonials which provided information regarding your personal circumstances [PRIVATE]. He noted your many years of success in the nursing profession and that the testimonials demonstrate how highly regarded you are by nursing and medical professionals. He submitted it would be a huge blow to the nursing profession to lose you and that it is in the public interest not to lose a nurse [PRIVATE]. He invited the panel to impose a suspension order to address the risks identified.

Decision and reasons on sanction

Having found your 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 determined that the following were aggravating features:

- Potential risk of harm to public and actual physical harm caused to the police officer.

- You sought to benefit financially by your misconduct.
- Your very limited insight.
- The nature of the criminal conviction amounts to a serious offence in which caused serious injury to a police officer.

The panel determined that the following were mitigating features:

- [PRIVATE]
- You made early admissions to some of the NMC charges.
- The positive testimonials made regarding your general character and your past work as a nurse.

The panel had regard to the NMC's guidance SAN-2 "Considering sanctions for serious cases", dated 27 February 2024. The panel noted the failings in your conduct outside of your professional practice as found proved in the conviction charge. It took into consideration that you failed to disclose you were under an NMC investigation and that you were subject to an interim order for your personal and financial gain. The panel bore in mind the dishonesty involved in your conduct breached your professional duty of candour. The panel determined that your actions underlying the misconduct and conviction charges are serious.

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 not be proportionate, would not protect the public nor mark 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 your 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 your misconduct and conviction was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of this case. The panel decided that it would not be proportionate, would not protect the public nor mark the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel bore in mind that that the charges found proved in relation to your misconduct and conviction were not linked to your clinical practice. 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. Additionally, the panel determined that your dishonesty was not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case and would not protect the public or mark the public interest.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states outlines some of the factors where a suspension order may be appropriate. The panel determined that this was a single instance of misconduct but where a lesser sanction is not sufficient. The panel also had regard to the criminal conviction and the harm caused from that offence. It concluded that, due to your very limited insight, the risk of harm caused by your behaviour has not decreased since the misconduct or the subsequent conviction. The panel did not find evidence of harmful deep-seated personality or attitudinal problems. However, the panel considered your dishonesty serious in the misconduct charge and in the circumstances around your conviction.

The panel noted its earlier finding that you have very limited insight. It considered the oral statement you made at the sanction stage of the hearing. It concluded that you are remorseful for your actions regarding your conduct in the conviction charge. However, it determined that you did not show any further insight into your actions, and the impact that your conviction and misconduct, has had on the police officer, members of the public and

public confidence in the nursing profession. Nor did you provide any information as to how you would behave if faced with similar challenging circumstances in the future. The panel bore in mind that it had no evidence before it of remediation in relation to your dishonest conduct. The panel found that there is a significant risk that the behaviour found proved, in both the misconduct and conviction charges, may be repeated.

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. It had regard to the testimonials provided on your behalf. However, the panel noted that the serious breaches of your duty of candour and the fundamental tenets of the profession, as evidenced by your actions, are fundamentally incompatible with you remaining on the register.

The panel concluded that temporary removal from the NMC register would not adequately mark the seriousness of this case. 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?*

Your actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with you remaining on the register. The panel was of the view that the findings in this particular case demonstrate that your actions were serious and to allow you to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

The panel took into consideration that your criminal sentence is not yet fully served. The panel bore in mind that a registrant should not be permitted to practise until the sentence for a serious offence has been completed.

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 your actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct yourself, 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 you 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 your 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 Badruddin. He submitted that an interim suspension order for the period of 18 months was necessary on the grounds of

public protection and public interest to cover the period before the sanction comes into effect and any potential period of appeal.

Mr Short stated that he has no submissions in relation to an interim order.

Decision and reasons on interim order

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

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

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

That concludes this determination.