

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

31 May 2022

Virtual Hearing

Name of Applicant:	Miss Kethiwe Caroline Nxumalo
NMC PIN:	03F0292O
Part(s) of the register:	Formerly Registered Nurse
Area of Registered Address:	England
Panel Members:	Jonathan Storey (Chair, lay member) Manjit Darby (Registrant member) Claire Corrigan (Lay member)
Legal Assessor:	Laura McGill
Hearings Coordinator:	Dilay Bekteshi
Miss Nxumalo:	Present and unrepresented
Nursing and Midwifery Council:	Represented by Eleazar Anyene, Case Presenter
Outcome:	Application granted subject to satisfying the requirements of Article 19(3)

Rule 19

During the course of the hearing, the panel, of its own volition, considered whether it should hold parts of the hearing in private, on the basis that the evidence included references to your family circumstances and health.

You supported this approach to the hearing. Mr Anyene on behalf of the Nursing and Midwifery Council (NMC) also agreed this would be appropriate.

The panel accepted the advice of the legal assessor. 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.

Having heard that there will be reference to your health and personal circumstances, the panel determined to hold those matters in private, when they are raised, in order to protect your right to privacy and confidentiality.

Determination of application for Restoration to the Register:

This is a hearing of your second application for restoration to the Nursing and Midwifery Council ("NMC") Register. A panel of the Conduct and Competence Committee directed on 11 September 2013 that your name be removed from the Register based on their findings with regard to the facts of your case and your impairment. You were removed from the register on 15 October 2013. This application is made by you in accordance with Article 33 of the Nursing and Midwifery Order 2001, as at least five years have now elapsed since the date of your strike-off.

In 2020, you made an application to be restored to the register. On 28 May 2020, a panel of the Fitness to Practise Committee rejected this application.

At this hearing, the panel may reject your application or it may grant your application unconditionally. It may grant your application subject to your satisfying the requirements of Article 19(3) and it may make a conditions of practice order.

The panel has considered your application for restoration to the Council's Register.

Background

On 20 December 2011 a Practise Committee of the Nursing and Midwifery Council imposed an interim suspension order on your registration for 12 months. On 21 May 2012, while still subject to that order, you telephoned the bank office at Kingston Hospital NHS Trust ('the Trust') where you had been registered with the bank as a staff nurse prior to your suspension. Your call was taken by Ms 1 the recruitment coordinator working in the bank office. It was alleged that during that phone call you asked to be reinstated on the bank register, so that you could work as a nurse and acted dishonestly by not disclosing the fact that you were subject to an NMC interim suspension order.

Further, on 31 August 2011, you were convicted at Croydon Magistrates Court for the offences listed below.

The panel at the substantive hearing 9 September 2013, considered the following charges:

That you a Registered Nurse:

- 1. On 21 May 2012, whilst subject to an interim suspension order imposed by a practice committee of the Nursing and Midwifery Council, contacted the bank office at Kingston Hospital NHS Trust and asked to be reinstated to the nurse bank so that you could work.*
- 2. During your telephone conversation with Ms 1 of Kingston Hospital NHS Trust did not disclose that you were subject to an interim suspension order by the Nursing and Midwifery Council.*
- 3. Your conduct as outlined at charge 2 was dishonest.*

AND in respect of charges 1-3 your fitness to practise is impaired by reason of your misconduct.

That you a Registered Nurse:

- 4. On 31 August 2011 were convicted at Croydon Magistrates Court of theft of 32 Solpadol effervescent tablets from Epsom Hospital on or before 20 April 2011.*
- 5. On 31 August 2011 were convicted at Croydon Magistrates Court of theft of 58 Co-Codamol tablets from East Surrey Hospital on or before 20 April 2011.*
- 6. On 31 August 2011 were convicted at Croydon Magistrates Court of theft of a quantity of pregnancy test kits belonging to East Surrey Hospital.*
- 7. On 31 August 2011 were convicted at Croydon Magistrates Court that on or before 20 April 2011 at Mayday Healthcare Plc, Sutton, dishonestly made a false representation, namely made false statements intending to make a gain, namely employment for yourself.*
- 8. On 31 August 2011 were convicted at Croydon Magistrates Court that on or before 20 April 2011 you had in your possession 32 tablets of Codeine 30/500mg, a controlled drug of Class B.*
- 9. On 31 August 2011 were convicted at Croydon Magistrates Court that on or before 20 April 2011 you had in your possession 58 tablets of Codeine 30/500mg, a controlled drug of Class B.*
- 10. In relation to 1-6 above on 14 November 2011 you were sentenced to a total of 9 months imprisonment suspended for 12 months, to carry out an unpaid work requirement of 100 hours and to pay £85.00 costs.*

And in respect of charges 4-10 your fitness to practise is impaired by reason of your conviction.

You attended the substantive hearing on 9 September 2013, with your representative, and admitted charges 2, 4, 5, 6, 7, 8, 9 and 10. Charges 1 and 3 were found not proved.

The substantive hearing panel, in making its decision on impairment, stated the following with regard to impairment:

The panel has considered whether your fitness to practise is impaired on the basis of the facts found proved under Rule 24 (12) of the Nursing and Midwifery Council Fitness to Practise Rules 2004. It has taken account of all the evidence before it, including the evidence you have given both at the fact finding stage and at this stage. It has also taken account of Ms Lewiecki's submissions on behalf of the NMC and Mr O'Brien's submissions on your behalf.

The panel accepted the advice of the legal assessor. The legal assessor advised that the panel must determine whether the registrant's fitness to practise is currently impaired and give reasons for finding or not finding that impairment. He made reference to the case of Cohen v General Medical Council [2008] EWHC 581 (Admin) in relation to the factors to take into account at this stage; whether the conduct is remediable, has it been remedied and is it likely to be repeated. Has the registrant insight into her actions? He also made reference to the judgement of Mrs Justice Cox in the case of CHRE v The Nursing and Midwifery Council and Grant, [2011] EWHC 927 (Admin), and in particular paragraph 74 in which she stated:

"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."

He stated that the wider public interest includes the need to maintain proper professional standards. The panel must determine whether in the particular circumstances of this case, public confidence in the profession and in the NMC as a regulatory body would be undermined if a finding of impairment were not

made. The panel must exercise its own professional judgement as there is no standard or burden of proof that is applied at this stage in the process.

The panel heard submissions from Ms Lewiecki who drew the panel's attention to relevant parts of the Code: Standards of conduct, performance and ethics for Nurses and midwives (2008) ('the Code'), and case law. Ms Lewiecki submitted that your convictions were for serious matters and that the panel should find your fitness to practise impaired.

Mr O'Brien submitted on your behalf that your fitness to practise is not currently impaired. Mr O'Brien submitted that you have shown insight into your circumstances and shown remorse by admitting to your actions, and consequently there is no impairment on your ability to remain as a Registered Nurse. He submitted that you have been penalised for your actions through your suspended prison sentence.

The panel, in reaching its decision, had regard to the public interest and exercised its own professional judgement.

The panel first considered, whether the fact found proved by admission in charge 2 amounted to misconduct. The NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

*The panel had regard to the meaning of misconduct in *Roylance v GMC* (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. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances." The panel also had regard to the terms of the Code in force at that time, namely the May 2008 edition.*

The panel determined that, as the facts in charges 1 and 3 were found not proved, you were under no duty or obligation to disclose your interim suspension

order during the telephone call. Therefore, the panel was satisfied that there was no misconduct.

The panel then went on to consider whether your convictions found proved in charges 4-10 could be sufficiently serious to impair your fitness to practise and, if so, whether your fitness to practise is impaired as of today. The NMC defines fitness to practise as a registrant's suitability to remain on the register unrestricted.

When determining whether the facts found proved amount to impairment the panel had regard to the Code. The panel determined that you were in breach of the following, from the preamble:

"You must [...] be open and honest, act with integrity and uphold the reputation of your profession. [...]"

And the following provisions of the Code:

49. You must adhere to the laws of the country in which you are practising.

50. You must inform the NMC if you have been cautioned, charged or found guilty of a criminal offence.

61: You must uphold the reputation of your profession at all times.

The panel followed the ISG given by Dame Janet Smith in the Fifth Shipman report and adopted in the case of Grant at paragraph 76.

"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 noted that theft by its very nature was dishonest. It was satisfied that your dishonest behaviour breached one of the fundamental tenets of the nursing profession, that of being open and honest and acting with integrity. In this regard the panel was satisfied that your actions brought the nursing profession into disrepute.

With regards to charge 7, you knew the risk that you might present to patients by not alerting a potential employer to your health condition and you knew that you had a duty to disclose this information. The panel noted that your health condition did not present an automatic bar to your finding employment, and so there was no convincing explanation for your dishonesty. Instead, your evidence reflected a lack of insight into this charge.

The panel is satisfied that all your convictions, namely three for theft, two for possession of Class B drugs, and another for fraud, resulting in a sentence of imprisonment for 9 months, albeit suspended for 12 months, and 100 hours of unpaid work for the community with a supervision order, are so serious that your fitness to practise could be impaired.

The panel then went on to consider whether your fitness to practise is currently impaired.

The panel took into account the case of Cohen and any remediation or remorse that you may have demonstrated. The panel was mindful that dishonesty is difficult to remedy. Having considered all your oral evidence it has formed the view that you lacked adequate insight into the gravity of the situation and the need to act with total honesty and integrity to uphold the reputation of the profession. The panel has also taken into account your own submission that you have not taken any action to remedy your behaviour. The panel took account of the fact that, in your oral evidence, you took no responsibility for the lies you told the police when they searched your home. The panel noted that as a Nurse you have a responsibility to tell the truth and to protect the reputation of the nursing profession, acting with honesty and integrity at all times.

The panel had regard to the question of whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment of fitness to practise were not made in the circumstances of this case. The panel has no doubt that it would given the gravity of your convictions, and your dishonest conduct.

Taking all of the above into consideration the panel finds that your fitness to practise is currently impaired by reason of your conviction. To find otherwise would undermine public confidence in the profession and would not uphold proper standards expected of a Registered Nurse.

The substantive panel went on to say the following with regard to sanction:

Having determined that your fitness to practise is impaired, the panel considered what sanction, if any, it should impose. In reaching its decision on sanction, the panel has considered all the evidence that has been placed before it.

The panel accepted the advice of the legal assessor. The legal assessor advised that the panel can dispose of this case by taking no action, imposing a caution

order for one to five years, conditions of practice order for no more than three years, a suspension order for a maximum of one year, or a striking off order.

He referred the panel to the case of Jala v NMC [2012] EWHC 2976 where the circumstances alleged against the nurse were similar to those of the present case. The judge in that case stated “dishonesty is an offence which brings a nurse’s trust and integrity into question, such that a patient who came into contact with her and was fully informed of the offences would have concerns”. The judgment referred to the case of Parkinson v Nursing and Midwifery Council [2010] EWHC 1898 (Admin) where the judge stated a nurse found to have acted dishonestly is always going to be at severe risk of having his or her name erased from the register.

The panel heard submissions from Ms Lewiecki, on behalf of the NMC. She accepted that you have not inflicted direct harm on any patient but the convictions were particularly serious, undermining the integrity of the profession. They were extensive and persistent over a period of time.

Ms Lewiecki referred the panel to a number of cases where dishonesty had been involved. In Parkinson, referred to in section 76 of the Indicative Sanctions Guidance (“ISG”) the judge stated “the courts have supported decisions to strike off health care professionals where there has been a lack of probity, honesty or trustworthiness notwithstanding that in other regards there were no concerns around the professional’s clinical skills or any risk of harm to the public”. She drew the panel’s attention to the case of Bolton v Law Society [1994] 1 W.L.R. 512 in which it was stated “the reputation of the profession is more important than the fortunes of any individual member. Membership of a profession brings many benefits but that is part of the price”. She also made reference to the case of R (on the application of Low) v GOC 2007 EWHC 2839 [Admin], which refers to and supports the quotation from Bolton.

Ms Lewiecki also referred the panel to the ISG, in particular paragraphs 39, 40 and 48 – 51.

Mr O'Brien submitted that the convictions are no reflection on your clinical practice as a Registered Nurse. He submitted that you are well thought of as a practitioner, and that you have been a valuable member of the profession. He said that you know you have a responsibility to your profession and the public. He further submitted that you should be given a chance to return to practise. He submitted that you have already been punished by the courts and given an interim suspension order. He referred to your personal circumstances and the hardship you would suffer if prevented from working as a nurse.

The panel has applied the principles of fairness, reasonableness and proportionality, weighing the public interest with your own interests and taking into account the mitigating and aggravating factors in the case. The public interest includes the protection of members of the public including patients, the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and behaviour within the profession. The panel has taken account of the ISG, bearing in mind that the decision on sanction is one for its own independent judgement.

The panel recognises that the purpose of a sanction is not to be punitive, although it may have a punitive effect. In addition, it recognises that in a conviction case such as this, a sanction is not intended to punish a registrant for a second time but to protect patients and the public interest.

The panel found that the fact that you have engaged with these proceedings and also your difficult personal circumstances were mitigating factors in this case.

The panel found the extent of your dishonesty and the fact that your thefts were from your places of employment to be aggravating factors in this case. Additionally, your lack of insight, failure to take responsibility for your actions, and lies under police questioning were seen as aggravating factors.

The panel considered the available sanctions in ascending order of severity.

The panel first considered taking no action. The panel decided that this would be wholly insufficient due to the serious nature of the offences giving rise to your convictions. Action is required to secure public trust and confidence in the profession and to declare and uphold proper standards of conduct and behaviour. To take no action would be inconsistent with the panel's findings on impairment.

The panel then considered whether a caution order would be sufficient. The panel has taken account of the ISG as it relates to caution orders. It is the panel's judgment that a caution order would not sufficiently mark the gravity of the offences. It found that this is not a case that is at the lower end of the spectrum of impaired fitness to practise.

The panel then considered a Conditions of Practice Order. It concluded that a Conditions of Practice Order would not be appropriate or sufficient, given the seriousness and the nature of your offences. This is not a case concerning lack of skills or knowledge and there are no conditions that could be formulated to address the dishonesty in your case.

The panel next considered whether a suspension order would be a sufficient sanction to protect patients and the public interest. It was guided by the paragraphs in the ISG setting out features of a case where suspension may be appropriate:

71.1 A single instance of misconduct but where a lesser sanction is not sufficient;

71.2 The misconduct is not fundamentally incompatible with continuing to be a registered nurse or midwife in that the public interest can be satisfied by a less severe outcome than permanent removal from the register.

71.3 No evidence of harmful deep-seated personality or attitudinal problems

71.4 No evidence of repetition of behaviour since the incident;

71.5 The panel is satisfied that the nurse or midwife has insight and does not pose significant risk of repeating behaviour.

The panel was particularly concerned about the extent and seriousness of the offences for which you were convicted and the breaches of the code these represent. Further, because of your lack of insight, the panel was not persuaded that there is no significant risk of your repeating your behaviour. There was no information before it, such as testimonials, with regard to your character.

The panel therefore concluded that a period of suspension would not be sufficient to maintain trust and confidence in the profession.

The panel determined that a striking off order is the only appropriate and proportionate sanction in the circumstances of this case. In the panel's view, the seriousness of the convictions, involving dishonesty including fraud, strikes at the heart of the profession and is incompatible with ongoing registration. There was no evidence of remediation that would show that you would not repeat your dishonest behaviour. Instead, your failure to take personal responsibility for your actions and your lack of insight present a real risk to the public. In conclusion, the panel considered that public trust and confidence in the profession and the NMC would be seriously damaged if you are not removed from the register.

The panel was aware that being removed from the register may cause you hardship. However, the panel is satisfied that public interest considerations outweigh your interests.

The panel therefore directs the Registrar to strike you off the Register.

This decision will be confirmed to you in writing. The order will take effect 28 days from the date when notice of it is deemed to have been served upon you. You have the right to appeal this decision.

Submissions and evidence

The panel took into account the documentary evidence, which included:

- The contents of your application for restoration dated 22 November 2021;
- Three written references;
- Certificates of training; and
- Two testimonials from your current employer dated 31 May 2022.

The panel had regard to the submissions of Mr Anyene, on behalf of the NMC, and those made by you. You also gave oral evidence.

Mr Anyene, on behalf of the NMC, outlined the background of the case and the facts that led to the striking-off order. He referred this panel to the previous panel's decision which resulted in your removal from the NMC's register. Mr Anyene referred the panel to the test set out in Article 33(5) of the Order.

You provided evidence under affirmation and told the panel that the mistakes you made as a registered nurse, and which led to you being struck-off, have severely impacted you, your colleagues and the nursing profession. You said you should have never put yourself in that situation and will not deny the conviction nor say that you were set up.

You told the panel that you are now 49 years old and that, looking back, you feel embarrassed. As a result of the strike off order, you lost your job as a registered nurse, which was your livelihood. [PRIVATE]

You told the panel that you have worked as a Health Care Assistant (HCA) for Mockley Manor Care Home (the Home) since 2018 in a substantive post. You told the panel that the Home is a private organisation which owns more than ten nursing homes. You said it is very supportive of you. You said that you have been promoted to be a team leader in the Home. You told the panel that you have held yourself together and worked as a trusted senior HCA. You said that you are striving to be a good citizen and that you want to be a good example to your children. You said that you have always wanted to

be a nurse and you want a second chance to prove to the panel that you can be a good nurse.

You told the panel that you have never been in trouble and that the convictions you received in 2015 were your only convictions. [PRIVATE].

You told the panel that although you are not a nurse, you have been using your expertise to help your colleagues at the Home. You informed the panel of your relationship with the referees who provided references in support of your application for restoration to the register. You said that your colleagues have been very approachable and there for you to talk to. You told the panel that you have done intensive training and that you are making attempts to keep up to date with the nursing profession.

In response to Mr Anyene's questions, you said you have read the Code of Conduct and that on the restoration hearing on 28 May 2022 you were honest and said you did not read it at the time. In relation to the references, you said that you have not seen those and you don't know if it is to the panel's standards. In relation to the certificates, you said that the certificates show the printing dates instead of the actual dates the training was undertaken. You said that you downloaded the Code of Conduct on your phone and that you have put it up on your wall. In addition, you said that you have been reading from various journals and nursing magazines to keep your nursing knowledge up to date.

[PRIVATE].

You told the panel the parts of the Code you breached. You told the panel that as a nurse you need to be open and candid and that you need to uphold the reputation of the nursing profession at all times, which you did not do. You said that on some level all the sections on the Code are engaged as you did not uphold any standards at that time in question. You told the panel that you abused the trust of your patients, colleagues and the nursing profession. You said that patients rely on nurses to care for them and that your actions brought the nursing profession into disrepute.

You explained and gave an example of how you have practised being honest in the job that you are doing now. You said that there is a good whistleblowing policy in the Home. You said that you have zero tolerance of abuse and will report it right away.

You said that you have a very supportive employer and that you wish to continue working at the Home. You said you feel like you are part of the family and that you know all the residents and staff. Your employer provided a second testimonial dated 31 May 2022 which states:

“I can confirm that she has been honest with me at all times regarding her DBS and this was declared at interview, I am fully aware of her past and she has been open at all times. She has demonstrated good practice to me at all times and will discuss any concerns that she has had with her previous husband and I have supported her throughout.

With regards to her return to practice Caroline has always hoped that she can work as a nurse at the care home, this has always been her goal and her wish, she is very passionate about this and we will do our utmost to support her with this role at the home and with any additional training and development that is needed providing we have the criteria in which to do this.

I wish her every success in her application and very much hope there is a positive outcome to her application”

In his final submissions, Mr Anyene withdrew his submissions in respect of your lack of compliance with the previous panel’s guidance in light of your oral evidence. This was in respect of your knowledge of the Code and your provision of testimonials.

You said you wanted to be given another chance and an opportunity to do something which you are passionate about. You said that you are a good nurse. You said you made a mistake, and that you regret your behaviour. You said that nursing was more than a job and your desire to return was not financially motivated, and pleaded with the panel to give you this opportunity if it could.

The panel accepted the advice of the legal assessor.

The legal assessor referred the panel to the test provided in Article 33(5) of the Order. Firstly, you must satisfy the panel that you satisfy the requirements of Article 9(2)(a) (approved qualification and prescribed education, training and experience) and Article 9(2)(b) (capable of safe practice). Secondly, you must satisfy the panel whether, having regard in particular to the circumstances which led to the making of the striking-off order in 2009, you are a “fit and proper person to practise as a registered nurse”. The legal assessor advised the panel that it is for you to satisfy the panel of these matters and it is for the panel to use its own independent judgment as to whether it is so satisfied.

The legal assessor also referred the panel to the case of GMC v Chandra [2018] EWCA. The legal assessor advised the panel to consider the following factors: the extent to which you have demonstrated insight and remediation into the concerns which include dishonesty, and invited it to have regard to the NMC’s guidance on remediation and insight. The panel must also consider: the period of time since you were struck off the register and your employment history since then; your efforts to keep up to date with professional practice; whether you are able to practise safely as a nurse in the future; and whether in the context of the decision to make a striking-off order previously, public confidence in the profession would be undermined if you were restored to the register.

Decision on the application for restoration

The panel has considered your application for restoration to the NMC register very carefully. It has decided to allow the application subject to your successful completion of a return to practice course.

In reaching its decision the panel recognised its statutory duty to protect the public as well as maintain public confidence in the reputation of the profession, which includes the declaring and upholding of proper professional standards. The panel bore in mind that the burden was upon you to satisfy it that you are a fit and proper person who is able to practise safely and effectively as a nurse.

The panel considered that during your oral evidence today your insight into the impact of your actions on the reputation of the nursing profession had progressed significantly since the last hearing. The panel considered that you were extremely open and candid and had not sought to minimise your convictions. It acknowledged the difficulty of speaking about such extremely sensitive matters in your life. The panel considered that you very clearly articulated your own understanding of how your personal circumstances at the time impacted on your thinking and decision making and how you brought your personal stress into work.

Having regard to the test set out in Article 33(5), the panel considered a number of matters in assessing whether you are a fit and proper person, who is capable of safe and effective practice. The panel assessed your level of reflection, remorse and insight into the matters which led to the striking-off order, the extent to which those concerns have been remediated, the training you have undertaken since the striking-off order and your employment history since that date.

The panel considered that you recognised the importance of nurses providing care to people, and how patients and their families have an expectation of honesty and high standards from members of the profession. You were able to clearly recognise how your actions affected the trust that patients and members of public place in nurses to look after patients with such high standards of care. The panel considered that you demonstrated personal responsibility and accountability for your actions.

[PRIVATE].

The panel considered your employment history and efforts to keep up to date with professional practice since you were struck off the register. The panel considered that you had undertaken a substantial amount of training as well as reading articles in order to keep your clinical skills up to date and to keep abreast of developments within the nursing profession. The panel also considered the testimonials from your employer dated 31 May 2022. It noted that the testimonials have shown that you are hardworking and dedicated to your return to the nursing profession. The panel also noted that you are knowledgeable in your role as a HCA and that you are taking leadership

responsibilities, albeit within your limitations as a HCA. It further noted that you have given clear evidence on your understanding of the Code, your responsibilities under the Code and how you breached the Code. You also explained the importance of honesty in your role as a registered nurse and you were able to clearly articulate the duty of candour. The panel is encouraged that you have kept as close to the nursing profession as you possibly can and have demonstrated that you would be receptive to future training. The panel was satisfied that this, along with the positive testimonial received relating your healthcare care assistant work, demonstrates your willingness to return to nursing.

The panel had regard to the need to maintain public confidence in the nursing profession and in the NMC as a regulator. It considered whether public confidence would be undermined if you were restored to the register. The panel considered that a striking-off order was made in 2013. Since then, you had made significant changes in your life, demonstrating full insight and remediation into not only the incidents, but the personal circumstances which surrounded your conviction. You have been on a positive journey, where you had learnt from what had happened, and were now entirely clear of your responsibilities as a nurse, in terms of the provision of a high standard of care to patients and being honest at all times. You also recognised the trust that members of the public, patients and relatives place in nurses to act with high standards and to behave honestly. The panel considered that members of the public, aware of the full circumstances leading to the striking-off order being imposed and everything that had occurred since, would be satisfied that the fitness to practise process had been rehabilitative. As well as protecting the public at the time of these matters, the proceedings had served to give you time and space to move forward, and to demonstrate full remediation and insight. The panel also recognised your commitment to the nursing profession, demonstrated by your willingness to re-train. In light of this, the panel considered that public confidence in the nursing profession and in the NMC as a regulator would not be undermined if you were restored to the register.

Overall, the panel was satisfied that you had demonstrated significant insight into the matters which led to the striking-off order being made. You had also demonstrated deep remorse, apologising for your actions before this panel. The panel considered that you

had demonstrated a passion and commitment to return to nursing, a job which it was clear you loved. This commitment was also demonstrated by you remaining working within the healthcare profession alongside the considerable efforts you have made to keep your knowledge and skills up to date over the last few years.

The panel is therefore satisfied that you are a fit and proper person, who would be capable of safe and effective practice, and has determined to grant your application for restoration.

The panel determined that it was not necessary to impose a Conditions of Practice Order, noting that the original misconduct in this case did not involve concerns with your clinical competencies and practice as a nurse. The panel was satisfied that a Return to Practice course would cover the requirements for you to be able to practise safely and effectively as a nurse, given your length of time out of practice.

In determining to grant your application for restoration the panel bore in mind that you have not practised as a registered nurse since 2013 and that you no longer meet the requirements for registration with the NMC on this basis. However, the panel determined to allow your application for restoration subject to your completion of a Return to Practice course and paying the prescribed fee which satisfies the requirements of Article 19(3) and Article 33(7)(a). This article states:

“The Council may by rules require persons who have not practised or who have not practised for or during a prescribed period, to undertake such education or training or to gain such experience as it shall specify in standards.”

“(7) On granting an application for restoration, the Committee—

(a) shall direct the Registrar to register the applicant in the relevant part of the register on his satisfying any requirements imposed under paragraph (6) and on payment of the prescribed fee; and”

That concludes this determination.

This decision will be confirmed to you in writing.