

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

**Substantive Hearing
Monday, 19 August 2024- Friday, 23 August 2024**

Virtual Hearing

Name of Registrant:	Michael Obafemi Babawale
NMC PIN	1412740E
Part(s) of the register:	Nurses part of the register Sub part 1 RNMH: Mental health nurse, level 1 (11 September 2015)
Relevant Location:	London
Type of case:	Misconduct
Panel members:	Alan Greenwood (Chair, lay member) Asmita Naik (Lay member) Kathryn Smith (Registrant member)
Legal Assessor:	Suzanne Palmer
Hearings Coordinator:	Eidvile Banionyte
Nursing and Midwifery Council:	Represented by Rory Gordon, Case Presenter
Mr Babawale:	Present and represented by Dr Abbey Akinoshun, instructed by ERRAS Legal Services
Facts found proved by way of admission:	Charges 1, 2, 3a, 3b, 3c, 3d
Facts proved:	Charge 4
Fitness to practise:	Impaired
Sanction:	Suspension (12 months), without a review
Interim order:	No order

Details of charge

That you, a registered nurse:

Between 1 March 2019 and 30 September 2020;

1. On up to 68 occasions, made entries for both bank and substantive shifts, for the same period, on the Trust's roster system.
2. On up to 68 occasions, claimed money for overlapping shifts.
3. You breached the Working Time Directive in that:
 - a. you exceeded the number of hours of work permitted each week on 51 occasions, including but not limited to:
 - b. on 30 March 2020 you worked two consecutive shifts.
 - c. on 16 April 2020 you worked two consecutive shifts.
 - d. in the week commencing 17 August 2020 you worked approximately 89.5 hours.
4. Your actions in charges 1 and/or 2, above were dishonest in that you sought to make financial gain by which you were not entitled.

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

Background

Your case was referred to the NMC on 13 July 2021 by the then Interim Head of Nursing and Quality at Bethlem Royal Hospital.

You were working as a Band 6 clinical charge nurse, or CCN on Gresham 2 ward (the ward) and had also been trained to be a Duty Senior Nurse (DSN). You were promoted to a Band 7 ward manager around the time that the concerns were first noted in September 2020.

The ward manager completed the rota on a four-week basis, although this task was often delegated to the Band 6 CCNs, and you as a Band 6 clinical charge nurse had the authority to change shifts manually.

The DSN role can be done by any CCN who has completed additional training to work as a DSN. On any shift, there is a single DSN for the entire hospital. That person is not usually included in the numbers for any individual ward, and has overall responsibility for the emergency response team throughout the hospital. The various wards provide DSNs on a rotating basis. Every four weeks each ward completes a roster which will include its DSN allocation on the days when that ward is required to provide one. If a DSN cannot be allocated, an email is circulated to other wards inviting staff members to put themselves forward. If there are still gaps in DSN provision, the shifts are offered as bank shifts via the NHS Professionals site.

The NMC case is that, on up to 68 occasions between March 2019 and September 2020, you booked yourself for substantive CCN shifts and DSN bank shifts which overlapped, and then claimed payment for both shifts, resulting in you being paid twice for the same hours during the period of overlap. This is alleged to be dishonest, in that you were seeking to make financial gain by claiming money to which you were not entitled. As a result of the overlap, you received an overpayment for 214.96 hours, or £4193.87.

The NMC further submitted that you also breached the Working Time Directive as on 51 occasions you exceeded the number of hours of work permitted in each week, including two occasions when you worked two consecutive shifts, and another week when you

worked approximately 89.5 hours, which is nearly double the maximum of 52.5 hours permitted.

These concerns came to light after a colleague healthcare assistant complained that you showed favouritism and allocated bank shifts in an unfair manner. The ward manager then made a request for your shift patterns between June and August 2020 initially, and the overlapping shifts were then discovered. An investigation was carried out by the Trust's counter fraud team and there was then a disciplinary meeting in June 2021 which resulted in your dismissal.

The Trust's policy on the Working Time Directive, clause 19.1 states that you are required to comply with the Trust policy on implementation of the Working Time regulations including declaration of hours worked and breaks taken when completing written records and reporting any instances where your patterns of working hours may constitute a health and safety risk to yourself, service users, the public and the other Trust employees.

Decision and reasons on facts

At the outset of the hearing, the panel heard from Dr Akinoshun, who informed the panel that you made full admissions to charges 1, 2, 3a, 3b, 3c, 3d.

The panel therefore finds charges 1, 2, 3a, 3b, 3c and 3d proved in their entirety, by way of your admissions.

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Mr Gordon on behalf of the NMC and by Dr Akinoshun on your behalf.

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 1: General manager for Inpatient and Crisis Services
- Witness 2: Accredited Counter Fraud Specialist

The panel also heard evidence from you under affirmation.

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 both the NMC and Dr Akinoshun.

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

Charge 4

“That you, a registered nurse, between 1 March 2019 and 30 September 2020;

4. Your actions in charges 1 and/or 2, above were dishonest in that you sought to make financial gain by which you were not entitled.

This charge is found proved.

When considering charge 4 the panel adopted in its approach the test for dishonesty laid out in the case of *Ivey v Genting Casinos (UK) Ltd (t/a Crockfords Club)* [2017] UKSC 67:

*'What was the defendant's actual state of knowledge or belief as to the facts;
and
was his conduct dishonest by the standards of ordinary decent people?'*

The panel referred to the NMC guidance *'Making decisions on dishonesty charges and the professional duty of candour'* reference *'DMA-8'*, last updated 27 February 2024.

In reaching this decision, the panel noted, that the allegation of dishonesty relates to 68 instances of overlapping shifts, over a period of 18 months, resulting in a financial loss of £4193.87 for the Trust. The panel determined that given the volume of overlap, the significant period of time and the fact that you were overpaid substantial amounts, meant that, on the balance of probabilities, you knew at the time that you claimed the money that there was an overlap and that you were not entitled to that money.

The panel noted that in your oral evidence you accepted that upon reflection and reviewing the NMC's guidance, you acted in breach of trust and in a dishonest way. You further told the panel that you accepted that you were not entitled to the financial gain.

The panel also noted that in your oral evidence you explained that you knew the hours you were supposed to be doing every week and you were noting down the hours from NHSP notification in your diary and read this in conjunction with the Health roster in order to get an overview of what you were doing each week. The panel also had sight of screenshots you had submitted where you had amended the start or finish times of bank shifts. This demonstrated that you paid attention to the times of your shifts and therefore you would have been alerted to the possibility of overlaps. The panel determined that you did realise that there were overlaps between your substantive and bank shifts.

The panel noted Witness 1's evidence, who explained that they had not come across another nurse who had made such timesheet errors. The panel also noted that as a CCN you were familiar with creating rosters for staff and knew the importance of those rosters being accurate.

The panel considered your explanation, that the shift bookkeeping was done by your wife, as you were overwhelmed at the time, and asked her to assist with this. You told the panel that had you submitted the timesheets yourself, you would have noticed the errors. The panel noted that your wife was not in the United Kingdom, at the time of some of the alleged claims, as she was not in the country until November 2019, and therefore the panel concluded, that it was unlikely that she was able to assist at that time.

The panel further noted that in your evidence, you told the panel that you were working extra hours to gain experience and to further strengthen your practice. You also told the panel that the Trust was in a critical position and needed your assistance. The panel accepts, that one of your goals was assisting the Trust and another was to enhance your experience and knowledge, with a view to furthering your career. However, the panel determined that it was more likely than not that you were also motivated by financial gain, because [PRIVATE]. Whether or not this was your primary motivation is not relevant. The fact that it was part of your motivation meant that you were, as the charge alleges, claiming money to which you knew you were not entitled, for financial gain.

The panel concluded that an ordinary decent member of the public, fully informed of the context of the charge, would find that your actions were dishonest.

The panel therefore concluded that you were acting dishonestly.

The panel found charge 4 proved.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether your 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, your fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

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

Mr Gordon identified the specific, relevant standards where your actions amounted to misconduct:

'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.

'20 Uphold the reputation of your profession at all times

To achieve this, you must:

20.2 act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment;

Mr Gordon submitted 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.

Dr Akinoshun accepted that your actions amounted to misconduct.

Submissions on impairment

Mr Gordon 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 cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin) and *Yeong v General Medical Council* [2009] EWHC 1923 (Admin). Mr Gordon submitted that the finding of impairment in your case is necessary given the seriousness of the breach.

Mr Gordon submitted that the booking of the overlapping shifts meant that people in your care were put at unwarranted risk of harm and because there was a risk of repetition there should be a finding of impairment on grounds of public protection.

Mr Gordon then went on to submit that finding of impairment is also required in the public interest, to mark the profound seriousness of the conduct which has taken place. He submitted that if people receiving care by you became aware of your professional dishonesty, they could lose confidence in the profession.

Mr Gordon further submitted that your conduct resulted in a financial loss to the Trust and that money could have been otherwise spent on the provision of healthcare to those who need it.

Mr Gordon submitted that your fitness is impaired because the public may lose confidence in the profession, if no steps are taken by the regulator to address your conduct.

Dr Akinoshun submitted that you are not currently impaired and addressed the panel with regards to your reflective piece, training certificate and professional reference from your current employer.

Dr Akinoshun submitted that you have otherwise an unblemished career, and this was simply an isolated lapse.

Dr Akinoshun submitted that whilst your actions did constitute misconduct, it did not constitute a current impairment due to your remedial actions, outlined in your reflective piece and your oral evidence at this hearing.

Dr Akinoshun submitted that you have made attempts to repay the moneys owed, however, you had not received a response from the Trust, even after following this up.

The panel accepted the advice of the legal assessor in relation to misconduct and impairment. This made reference to a number of relevant judgments, including: *Roylance, Nandi v General Medical Council* [2004] EWHC 2317 (Admin), *R (Remedy UK Ltd) v GMC* [2010] EWHC 1245 (Admin), *R (Calhaem) v GMC* [2007] EWHC 2606 (Admin), *Johnson & Maggs v NMC (No. 2)* [2013] EWHC 2140 (Admin), *Cohen v GMC* [2008] EWHC 581 (Admin), *CHRE v NMC & Grant* [2011] EWHC 927 (Admin).

Decision and reasons on misconduct

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

When determining whether the facts found proved amount to misconduct, the panel had regard to the terms of the Code.

The panel was of the view that 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:

'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

'20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

20.2 act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment;

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that the evidence before it illustrated how you abused your position of trust as a Band 6 nurse and failed to act with the integrity expected of a professional nurse.

The panel considered charges 1,2 and 4 together, because although they were separate charges, they all related to different facets of the same course of serious dishonest conduct.

The panel considered that due to the sheer number and volume of overlaps and the length of period which this dishonest behaviour spanned, your actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

In relation to charge 3, the panel considered that your actions, particularly those in 3a and 3d, breached terms of your employment contract, which were in place to protect you and those in your care. Again, this conduct took place on many occasions over a protracted period. The panel considered that this was a sufficiently serious departure from required standards to amount to misconduct.

The panel therefore concluded that the proven charges amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, 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 your misconduct breached the fundamental tenets of the nursing profession to act with honesty and integrity and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not take charges relating to dishonesty extremely seriously.

The panel noted that your misconduct did not relate to your clinical practice. The panel was of the view that your conduct did not put patients at risk of harm to any significant degree, but that in regard to the Grant test, three of the four limbs were engaged.

The panel next considered whether you were likely in such a way again in the future.

Regarding insight, the panel considered that you have developed some insight. The panel was of the view that you have demonstrated some understanding of why what you did was wrong and how this impacted negatively on the reputation of the nursing profession.

The panel noted that you were remorseful and agreed that your reflection was good, addressing many of the issues relevant to your case:

'I understand fully the impact of money claimed for overlapping shifts could have on the trust finance and budget as these money could be spent more on patient care in the clinical area.'

'I have learnt from my poor error of judgement and fully aware of the need to comply with the NMC code at all times and the need to act with honesty and integrity, the incidents have made me become more aware of my responsibilities as a nurse and the need to be open and honest at all times.'

The panel noted that dishonesty is not easily remediable, however concluded that you were taking steps to address it. The panel also noted your attempts to repay the money and also took into account that you had not received a response from the Trust even after following that up. The panel also noted that you have taken a further CPD course on 'Law,

Ethics, Professional Accountability, Documentation and Recordkeeping Workshop', in order to strengthen your future practice.

The panel further noted that there has been no repetition of your actions since these events. Moreover, the reference from your current employers is positive about your conduct and shows that you have taken steps to avoid the same situation reoccurring. It accepted that you have learned a salutary lesson from these events.

Taking all these factors into account, the panel concluded that the risk of repetition is very low. It did not consider that your fitness to practise is currently impaired on public protection grounds.

The panel then went on to consider the wider public interest aspect of this case.

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 public interest grounds is required because a well-informed member of the public, aware of the circumstances of your case, would be shocked if you were allowed to continue practising unrestricted, following the dishonest conduct.

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 finds your fitness to practise impaired on the grounds of 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 suspension order for a period of 12 months, without a review. The effect of this order is that the NMC register will show that your registration has been suspended.

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

Submissions on sanction

Mr Gordon invited the panel to impose a strike off order in this case.

He referred the panel to the NMC guidance, SAN-1 and SAN-2 and submitted that the strike off order is the proportionate order in this case in all the circumstances.

Mr Gordon submitted that when considering sanction, the panel must have regard to aggravating and mitigating features. He submitted the following aggravating features are present in this case:

- Breach of the position of trust by abuse of the rostering system
- The period of time over which this fraud occurred (March 2019- September 2020)
- The sum of money (£4193.87) which was paid by the taxpayers and defrauded from the Trust

Mr Gordon submitted that these were the mitigating circumstances in this case:

- Early admissions as to misconduct
- Some evidence of remediation
- Some further training

- Some references

Mr Gordon submitted, that due to limited remediation, mixed level of insight and mixed admissions and notwithstanding the previous good character, it was just necessary and proportionate for a striking off order to be imposed today.

The panel also bore in mind Dr Akinoshun's submissions regarding sanction.

Dr Akinoshun reminded the panel of its earlier findings that there were no public protection issues in this case and that impairment was only found on public interest grounds. Dr Akinoshun further submitted that a strike off order would therefore be disproportionate in this case.

Dr Akinoshun submitted that the panel should ensure the return of a good nurse in the interests of the public, because the public may benefit from a nurse like you.

Dr Akinoshun submitted that these were the mitigating circumstances in this case:

- Insight and remediation steps
- Early admissions
- Taking full responsibility for your feelings and actions
- No further concerns since the misconduct
- Further training
- Personal mitigation
- Full engagement with the NMC proceedings
- Positive testimonials and references
- Efforts to repay the money

Dr Akinoshun referred the panel to the sanctions bundle you have submitted for this hearing.

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

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 took into account the following aggravating features:

- The conduct in question consisted of dishonesty on multiple occasions over a protracted period of time (18 months) and caused a loss of £4193.87 to the Trust

The panel also took into account the following mitigating features:

- Early admissions of facts
- Apologies and evidence of insight, remorse and steps taken to address the concerns
- Positive references from employers and patients
- Attempts to repay the money
- No further concerns since

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 interest 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 was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable.

The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The panel noted that your misconduct did not relate to your clinical practice and there were no public protection concerns in this case. The misconduct identified in this case was not something that can be addressed through retraining.

Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case and would not be in the public interest.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*

- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register.

It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in your case to impose a striking-off order.

In reaching this decision, the panel acknowledged the seriousness of your misconduct. The dishonesty in this case was at the more serious end of the spectrum, because of the number of occasions and length of time over which it occurred. The panel noted, however, that you have generally been frank and open during these proceedings. The panel further concluded that although you were in part motivated by financial gain, you were also motivated to some extent by your wish to help the Trust to cover shifts, and by your wish to enhance your skills and experience as a nurse.

The panel was particularly impressed with the testimonials about your current nursing practice. Ms 1 acknowledged that you were a good nurse and a loss to the Trust. Your current employer has spoken in very positive terms about your current conduct and performance. The panel also saw powerful patient testimonials referring to your caring and committed attitude towards your patients. The panel accepted that you are well regarded by both patients and employers for your clinical skills and your caring and professional interpersonal qualities. You have taken active steps to ensure that your past actions will not be repeated and have not repeated them in the four years since they occurred.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction and would be sufficient to mark the seriousness of your actions in order to maintain public confidence in the profession.

The panel noted the hardship such an order will inevitably cause you. However, this is outweighed by the public interest in this case.

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

In making this decision, the panel carefully considered the submissions of Mr Gordon in relation to the sanction that the NMC was seeking in this case. However, the panel considered that there was a high public interest in keeping good nurses in practice. The panel further noted that your misconduct did not relate to your clinical practice and there were no public protection issues in this case. Therefore, the panel decided that a striking off order would be disproportionate in this case.

The panel determined that a suspension order for a period of 12 months was appropriate and necessary in this case to mark the seriousness of the misconduct.

Having found that your fitness to practise is currently impaired, the panel bore in mind that it determined there were no public protection concerns arising from its decision. In this respect it found your fitness to practise impaired on the grounds of public interest.

In accordance with Article 29 (8A) of the Order the panel may exercise its discretionary power and determine that a review of the substantive order is not necessary.

The panel determined that it made the substantive order having found your fitness to practise currently impaired in the public interest. The panel was satisfied that the substantive order will satisfy the public interest in this case and will maintain public

confidence in the profession as well as the NMC as the regulator. Further, the substantive order will declare and uphold proper professional standards. Accordingly, the current substantive order will expire, without review, at the end of 18 September 2025.

This will be confirmed to you in writing.

Interim order

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

Submissions on interim order

The panel took account of the submissions made by Mr Gordon. He invited the panel to impose an interim suspension order for 18 months.

Mr Gordon submitted that such an interim order would be necessary to sustain public confidence in the profession and to ensure that you are sanctioned from the date of today's hearing. He further submitted that this interim order is necessary to cover any appeal period if it was lodged.

The panel also took into account the submissions of Dr Akinoshun, who reminded the panel that it found that you are not impaired on public protection grounds and that there is no risk of harm to the public. He further submitted that you have not been on an interim order previously and there is no reason to suggest it is necessary now, given the panel's findings in this hearing.

Decision and reasons on interim order

In reaching its decision, the panel took into account all the information before it, including submissions from Mr Gordon and Dr Akinoshun, and the NMC guidance on interim orders (INT-1). The panel also bore in mind its decision on the substantive sanction.

The panel considered that it found no public protection concerns in this case. Accordingly, the panel was satisfied that an interim order is not necessary on public protection grounds. The panel also considered that there is no indication of any matters which would suggest that an interim order would be in your interest, and it determined that an interim order is not needed on this ground.

The panel noted its finding of impairment on public interest grounds, and considered whether an interim order would be otherwise in the public interest, in order to maintain confidence in the profession and to uphold standards, even though it is not necessary for public protection. It bore in mind that the threshold for making an order on this ground alone is a high one. The panel was of the view that the public interest in marking the seriousness of your misconduct can be satisfied by the substantive suspension order taking effect in due course.

The panel also took into account that if an interim suspension order was imposed, this would have the effect that you could be subject to an order for what may be a significant period of time in addition to the 12-month suspension which the panel has decided is proportionate.

In these circumstances, and in light of the high bar to impose an interim order on public interest grounds alone, the panel was not persuaded that an interim order is either required or proportionate in this case.

That concludes this determination.