

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

**Substantive Hearing  
Monday, 12 August 2024 – Friday, 16 August 2024**

Virtual Hearing

**Name of Registrant:** **Angela Magdalen Hawley**

**NMC PIN** 80D0992E

**Part(s) of the register:** Registered Nurse – Sub part 2  
Adult nurse, level 2 (29 May 1980)  
Registered Nurse – Sub part 1  
Adult nurse, level 1 (30 July 1999)

**Relevant Location:** Dorset

**Type of case:** Misconduct

**Panel members:** Dale Simon (Chair, lay member)  
David Newsham (Lay member)  
Katrina Maclaine (Registrant member)

**Legal Assessor:** Breige Gilmore

**Hearings Coordinator:** Khatra Ibrahim

**Nursing and Midwifery Council:** Represented by Isabelle Knight, Case Presenter

**Miss Hawley:** Not present and unrepresented at this hearing

**Facts proved:** Charges 1, 2 and 3

**Fitness to practise:** **Impaired**

**Sanction:** **Striking off order**

**Interim order:** **Interim suspension order (18 months)**

## **Decision and reasons on service of Notice of Hearing**

The panel was informed at the start of this hearing that Miss Hawley was not in attendance and that the Notice of Hearing letter had been sent to Miss Hawley's registered email address by secure email on 10 July 2024.

Ms Knight, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, dates and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Miss Hawley's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

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

## **Decision and reasons on proceeding in the absence of Miss Hawley**

The panel next considered whether it should proceed in the absence of Miss Hawley. It had regard to Rule 21 and heard the submissions of Ms Knight, who invited the panel to continue in the absence of Miss Hawley. She submitted that Miss Hawley has voluntarily absented herself.

Ms Knight submitted that Miss Hawley last engaged with the NMC in relation to these proceedings in November 2022 and that since then, Miss Hawley has not responded to telephone calls from the NMC, nor has she returned the Case Management Form. She

submitted that as a consequence, there was no reason to believe that an adjournment would secure Miss Hawley's attendance on some future occasion.

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised '*with the utmost care and caution*' as referred to in the case of *R v Jones (Anthony William)* (No.2) [2002] UKHL 5.

The panel has decided to proceed in the absence of Miss Hawley. In reaching this decision, the panel has considered the submissions of Ms Knight and the advice of the legal assessor. It has had particular regard to the factors set out in the decision of *R v Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162 and had regard to the overall interests of justice and fairness to all parties. It noted that:

- Miss Hawley has not engaged with the NMC since November 2022, and has not responded to any of the letters sent to her about this hearing;
- Clear steps have been taken by the NMC to contact Miss Hawley, to which she has not responded;
- No application for an adjournment has been made by Miss Hawley;
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- Three witnesses are due to give live evidence at this hearing;
- Not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- The charges relate to events that occurred between 2020 and 2022, and further delays may have an adverse effect on the ability of witnesses accurately to recall events;
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Miss Hawley in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her registered email address, Miss Hawley has made no response to the allegations. Miss Hawley will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on her own behalf. However, in the panel's judgement, any disadvantage can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Miss Hawley's decisions to absent herself from the hearing, waive her rights to attend, and/or be represented, and to not provide evidence or make submissions on her own behalf.

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

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

[PRIVATE]

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.

[PRIVATE]

### **Details of charge**

That you a registered nurse, whilst working at the Dorset Healthcare University NHS Foundation Trust ('the Trust');

- 1) Between 7 November 2020 and 21 April 2022, on more than one occasion took/consumed codeine tablets from the Trust.
- 2) On the shift of 22/23 April 2022 took/consumed 2 codeine tablets from the Trust.
- 3) Your actions at charges 1 and/or 2 above were dishonest, in that you without permission took/consumed, with an intention not to return them.

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

## **Background**

The charges arose whilst Miss Hawley was employed as a registered nurse on bank shifts by Dorset Healthcare University NHS Foundation Trust (the Trust) and she was referred to the NMC on 14 October 2022 .

Between 8 November 2020 and 24 May 2022, it was noted that codeine phosphate (codeine) went missing from Hanham Ward (the Ward), at Wimborne Hospital (the Hospital). Medication checks were carried out on the Ward over this period, and it was noted that codeine went missing on thirty one occasions. Miss Hawley was recorded as being on shift for twenty two of those occasions. A local investigation by security management specialists was conducted by the Trust on 29 June 2022. It found no direct evidence of Miss Hawley stealing codeine from the Ward, and that there were occasions where codeine was reported to be missing when she was not on shift at the Hospital.

It was noted that codeine continued to go missing after Miss Hawley's last shift at the Trust on 23 April 2022. Miss Hawley was one of five nurses who were suspected of the

theft and were questioned about the missing codeine as part of the local investigation, but she was the only nurse who admitted to the theft of codeine tablets over a period of two years. A disciplinary hearing was held on 17 August 2022 and when this was concluded, Miss Hawley's contract was terminated, and she was dismissed from the Trust.

### **Decision and reasons on facts**

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 Ms Knight and Miss Hawley's registrant's response bundle.

The panel has drawn no adverse inference from the non-attendance of Miss Hawley.

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: Security Management Specialist at the Trust, at the time of the incidents
  
- Witness 2: Service Lead for Outpatients at the Trust, at the time of the incidents
  
- Witness 3: Professional Lead Trust Bank and eRoster, at the time of the incidents

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor.

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

### **Charge 1**

That you, a registered nurse, between 7 November 2020 and 21 April 2022, on more than one occasion took/consumed codeine tablets from the Trust.

### **This charge is found proved.**

In reaching this decision, the panel took into account the NMC's evidence, and the oral and written evidence of the three witnesses. It also took into account the Investigation Report (the Report) authored by Witness 1, which referred to the circumstantial evidence that Miss Hawley had been working on many of the shifts where codeine had gone missing and the Registrant's response bundle.

The panel reviewed the interview transcript for Miss Hawley from the local investigation and noted that the following admissions had been recorded:

*'...When asked how many tablets [Miss Hawley] thought she had taken over the last two years. [Miss Hawley] replied it was very spasmodic. I don't know is the answer. It's only when I have done quite a few shifts and I have [PRIVATE]. I just know that if I have [PRIVATE], and I know I shouldn't have done.*

*[Miss Hawley] was asked if this could be 10, 20 or 30 tablets over time. [Miss Hawley] replied, it could be anything over the year, maybe 10, 12, 14. I don't know it's not every shift...'*

*'...When asked how many tablets [Miss Hawley] would normally take. [Miss Hawley] replied, I probably just take 2. They are 15mg tablets of codeine so 30mg...'*

The panel further noted the letter from the RCN on behalf of Miss Hawley, dated 8 November 2022, which states:

- *'...[Miss Hawley] fully accepts that she removed medication (Codeine) without authorisation and/or consent, but there remains a dispute about the quantity and how frequently this took place between 9 November 2020 and 23 April 2022;*
- *She fully concedes that the medication was for her personal use...'*

Given Miss Hawley's numerous admissions, the panel were satisfied on the balance of probabilities, that Miss Hawley had on one or more occasions between 7 November 2020 and 21 April 2022 took/consumed codeine tablets from the Trust. The panel therefore found this charge proved.

## **Charge 2**

That, you, a registered nurse, on the shift of 22/23 April 2022 took/consumed 2 codeine tablets from the Trust.

### **This charge is found proved.**

In reaching this decision, the panel had regard to the evidence of Witness 1 and Miss Hawley's admissions during the local in investigation, when questioned about taking codeine, she replied:

*"...I know I did take two codeine tablets on my last shift. This was on Saturday 23rd April 2022..."*



The panel therefore determined that on the balance of probabilities, this charge was proved.

### **Charge 3**

That your actions at charges 1 and/or 2 above were dishonest, in that you without permission took/consumed codeine tablets belonging to your employer, with an intention not to return them.

### **This charge is found proved.**

Having found charges 1 and 2 proved, the panel went on to consider whether Miss Hawley's conduct in charges 1 and 2 were dishonest. In considering whether Miss Hawley's actions were dishonest, the panel had regard to the NMC Guidance on Making decisions on dishonesty charges, (DMA-8). It also had regard to the two-stage test laid down in the case of *Ivey v Genting Casinos UK Limited* [2017] UKSC 67 namely:

- 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?

In applying the first limb of the test to this case, the panel noted the comments made by Miss Hawley during the local investigation. When Miss Hawley was asked if she had permission to take the codeine, she said she did not. Further, when asked what she understood in relation to taking medication on the Ward at work, Miss Hawley said she knew it was a form of theft.

The panel noted that codeine is a Class B Schedule 5 prescription only, opioid medication, and is primarily used to treat acute to moderate pain, which cannot be relieved by other analgesics, for example, paracetamol. The panel was of the view that as an experienced

registered nurse, Miss Hawley, would have known this. It therefore determined on the balance of probabilities that Miss Hawley knew that she was acting dishonestly by taking codeine from the Ward [PRIVATE] without permission.

In applying the second limb of the test, the panel was of the view that taking unprescribed medication from a hospital ward, without permission for Miss Hawley's [PRIVATE] is a clear departure of the standards expected of a registered nurse. The panel was satisfied that Miss Hawley's conduct in regard to Charges 1 and 2 would be considered dishonest by ordinary decent people. The panel therefore determined on the balance of probabilities, that Charge 3 was 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 Miss Hawley's 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, Miss Hawley's fitness to practise is currently impaired as a result of that misconduct.

### **Submissions on misconduct**

Ms Knight invited the panel to find the facts found proved amounted to misconduct.

Ms Knight 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.'*

Ms Knight invited the panel to take the view that the facts found proved amount to misconduct. She referred the panel to the terms of *'The Code: Professional standards of practice and behaviour for nurses and midwives 2015'* (the Code). She identified the specific, relevant standards where she submitted Miss Hawley's actions amounted to misconduct. In particular, she stated that Miss Hawley had breached the following sections of the Code:

*'19 - Be aware of, and reduce as far as possible, any potential for harm associated with your practice*

*20 - Uphold the reputation of your profession at all times*

*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'*

Ms Knight submitted that it is clear that Miss Hawley knew what was required of her as an experienced registered nurse, and the panel has found that Miss Hawley had acted dishonestly. She submitted that Miss Hawley consumed up to fourteen tablets over a period of two years, and that this was not a momentary lapse of judgement, but a course of dishonest behaviour over a significant period of time.

### **Submissions on impairment**

Ms Knight addressed the panel on the issue of impairment and reminded the panel 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. She made reference to the case of CHRE v Grant & NMC[2011] EWHC 927 (Admin) ('Grant') by Cox J and submitted that all four limbs of the test are engaged. She also submitted that Miss Hawley, by taking medication from the Ward put patients at risk of harm, as she had taken medication that should have been available to patients and was also working after having taken codeine, an opiate which has the side effect of causing drowsiness.

Ms Knight submitted that charges found proved had brought the nursing profession into disrepute, as they relate to the theft of medication and dishonesty. She further submitted that Miss Hawley, by acting dishonestly over a significant period of time, has breached the fundamental tenets of the nursing profession.

Ms Knight submitted that Miss Hawley's fitness to practise is currently impaired. She submitted that there has been no evidence of remediation, which is particularly important in the context of this case as Miss Hawley's actions arise from matters that are attitudinal in nature. Ms Knight invited the panel to consider the case of Cohen v GMC [2007] EWHC 581 (Admin).

Ms Knight submitted that Miss Hawley's conduct raises concerns as to her integrity, professionalism and trustworthiness, as she knew that her actions were wrong but continued to take medication from the Ward. She submitted that Charge 3 related to dishonesty, which is difficult to remediate. She invited the panel to consider the NMC guidance entitled '*Making decisions on dishonesty charges and the professional duty of candour*' (DMA-8)

Ms Knight submitted that nurses occupy a position of privilege and trust in society and the concerns in this case are so serious that a finding of impairment is required to maintain public confidence in the profession. She invited the panel to find Miss Hawley's fitness to practise impaired on public interest grounds.

The panel accepted the advice of the legal assessor.

## **Decision and reasons on misconduct**

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

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

### ***'19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice***

**19.1** Take measures to reduce as far as possible, the likelihood of mistakes, near misses, harm and the effect of harm if it takes place

**19.4** Take all reasonable personal precautions necessary to avoid any potential health risks to colleagues, people receiving care and the public

### ***20 Uphold the reputation of your profession at all times***

**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

**20.4** Keep to the laws of the country in which you are practising.'

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. In assessing whether the charges amounted to misconduct, the panel

considered the charges individually and collectively as well as the circumstances of the case as a whole.

The panel bore in mind that it had found that Miss Hawley had engaged in dishonest behaviour on several occasions over a significant period of time for her own benefit. The panel therefore concluded that Miss Hawley's actions did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

### **Decision and reasons on impairment**

The panel next went on to decide if as a result of the misconduct found proved, Miss Hawley's fitness to practise is currently impaired. It took account of all of the documentary and oral evidence before it, Ms Knight's submissions and Miss Hawley's registrant's bundle.

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 and to maintain professional boundaries. 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 found that all four limbs of the test were engaged. Patients were put at risk of harm by Miss Hawley ingesting codeine whilst responsible for patient care, her misconduct had breached fundamental tenets of the nursing profession, including a professional duty of candour, and had brought its reputation into disrepute and that she had acted dishonestly. [PRIVATE]. The panel therefore concluded that Miss Hawley's fitness to practice was impaired on public protection grounds.

The panel did not have any evidence before it to demonstrate that the concerns in this case had been remediated, and noted that allegations of dishonesty by their nature are always difficult to remediate. This was particularly so in this case as the dishonesty was deliberate and conducted over a significant period of time for personal gain, which suggested that Miss Hawley had a deep-seated attitudinal problem. The apology offered at the disciplinary investigation focused on the impact that her actions had on her as an individual and made no reference to her colleagues, patients or the nursing profession. Miss Hawley had not provided the panel with a reflective piece or demonstrated any insight and the NMC had not been able to explore this with her, due to her non-engagement since November 2022. The panel therefore determined that there remains a real risk of repetition and consequently found that Miss Hawley is currently impaired 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 public interest grounds is required as a well-informed member of the public would be concerned to learn that a nurse with such charges found proved were allowed to practise unrestricted. 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; as it relates to dishonesty over a significant period



of time for personal benefit. The panel therefore also finds Miss Hawley's fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Miss Hawley's 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 Miss Hawley off the register. The effect of this order is that the NMC register will show that Miss Hawley 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**

Ms Knight informed the panel that in the Notice of Hearing, dated 10 July 2024, the NMC had advised Miss Hawley that it would seek the imposition of a striking off order if the panel found Miss Hawley's fitness to practise currently impaired.

Ms Knight invited the panel to consider the Sanction Guidance (SG) and reminded the panel that the purpose of sanctions is not to be punitive but to protect the public and uphold the public interest. She submitted that a striking off order is proportionate and fair and adequately addresses the public protection and the public interest concerns in this case.

Ms Knight submitted that the aggravating factors for this case include:

- Abuse of position of trust;
- Putting vulnerable patients at a direct risk of harm;
- Taking of medication on multiple occasions over a significant period of time;
- Dishonesty is linked to Miss Hawley's clinical practice, as she took the medication from the Ward and ingested the tablets whilst she was on duty;
- A lack of insight;
- A lack of remorse;
- Serious attitudinal concerns; and
- [PRIVATE]

Ms Knight submitted that, in regard to the mitigating factors, there has been some limited engagement between Miss Hawley and the NMC and she had made partial admissions.

Ms Knight submitted that it would be wholly inappropriate for the panel to impose no order, given the seriousness of Miss Hawley's misconduct and the panel's findings that the concerns have not been remediated. She further submitted that taking no action would not adequately address the public protection and public interest concerns.

Ms Knight submitted that a caution order is not suitable in this case, as it only addresses conduct at the lower end of the spectrum and the seriousness of the charges found proved does not fall within that category.

Ms Knight submitted that a conditions of practice order would not be appropriate as it would not be possible to formulate conditions which could be considered workable, measurable or proportionate to address the attitudinal concerns and Miss Hawley's dishonesty.

Ms Knight then invited the panel to consider the guidance on imposing a suspension order (SAN-3d). She submitted that Miss Hawley's conduct was a significant departure from the

standards expected of a registered nurse and would not be adequately addressed by a suspension order.

Consequently, Ms Knight submitted that a period of suspension would not adequately address the public protection and public interest factors in this particular case.

Ms Knight drew the panel's attention to the NMC's guidance on seriousness when determining the imposition of a striking-off order (SAN-2). The guidance states:

*'Honesty is of central importance to a nurse's practice. Therefore, allegations of dishonesty will always be serious and a nurse [who] has acted dishonestly will always be at some risk of being removed from the register.'*

Ms Knight submitted that the regulatory concerns in this case raise fundamental concerns about Miss Hawley's professionalism and trustworthiness, and would therefore be incompatible with continued registration. She also submitted there would be damage to public confidence in nurses and midwives if Miss Hawley were allowed to continue to practice as a registered nurse.

Ms Knight invited the panel to strike Miss Hawley off the NMC register.

### **Decision and reasons on sanction**

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

The panel took into account the following aggravating features:

- Abuse of position of trust;
- Putting vulnerable patients at a direct risk of harm;
- Taking of medication on multiple occasions over a significant period of time;
- Dishonesty is linked to Miss Hawley's clinical practice, as she took the medication from the Ward and ingested the tablets whilst she was on duty;
- A lack of insight;
- A lack of remorse;
- Serious attitudinal concerns; and
- [PRIVATE]

The panel also took into account the following mitigating feature:

- Partial admissions to the Trust; and
- [PRIVATE].

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.

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

The panel next considered whether placing conditions of practice on Miss Hawley's registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case, and that Miss Hawley has not engaged with the NMC for some time. The misconduct identified in this case was not something that can be addressed through retraining, and in light of Miss Hawley's non engagement, there was no reason to believe that she would comply with any such order. The panel also concluded that a conditions of practice order would not address the public interest concerns in this case.

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

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident; and*
- *In cases where the only issue relates to the nurse or midwife's health, there is a risk to patient safety if they were allowed to continue to practise even with conditions.*

The panel considered that a suspension order would not be appropriate in this case as it did not relate to a single incident, and it considered that Miss Hawley had serious attitudinal issues and concluded that a suspension order would not meet the public interest concerns in this case.

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Miss Hawley's actions is fundamentally incompatible with Miss Hawley remaining on the register.

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

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG (SAN-3e):

- *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?*

Miss Hawley's actions were a significant departure from the standards expected of a registered nurse, occurred over a prolonged period of time and are fundamentally incompatible with her remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Miss Hawley's actions were sufficiently serious that to allow her to continue practising would undermine public confidence in the profession and in the NMC as its regulator.

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 Miss Hawley's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct herself, 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 Miss Hawley 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 Miss Hawley's own interests until the striking-off sanction takes effect.

### **Submissions on interim order**

Ms Knight invited the panel to impose an interim suspension order for a period of 18 months to account for the 28-day appeal period, in light of the panel's substantive decision.

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

### **Decision and reasons on interim order**

The panel determined that not to impose an interim suspension order would be wholly incompatible with its earlier findings.

The panel considered the guidance on interim orders (INT-1). 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 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 suspension order is consistent with its findings on impairment and sanction.

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 relevant appeal period.

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

That concludes this determination.