

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

**Substantive Meeting  
Tuesday 13 August – Thursday 15 August 2024**

Virtual Meeting

<b>Name of Registrant:</b>	<b>Sharon Christine Robinson</b>	
<b>NMC PIN</b>	0118206E	
<b>Part(s) of the register:</b>	RNA: Adult nurse, level 1 (20 September 2004)	
<b>Relevant Location:</b>	Nottingham	
<b>Type of case:</b>	Misconduct	
<b>Panel members:</b>	Pamela Johal Purushotham Kamath Joanne Morgan	(Chair, Lay member) (Registrant member) (Lay member)
<b>Legal Assessor:</b>	Simon Walsh	
<b>Hearings Coordinator:</b>	Hanifah Choudhury	
<b>Facts proved:</b>	Charges 1, 2, 3, 4, 5, 6 and 7	
<b>Facts not proved:</b>	None	
<b>Fitness to practise:</b>	Impaired	
<b>Sanction:</b>	<b>Striking-off order</b>	
<b>Interim order:</b>	<b>Interim suspension order (18 months)</b>	

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

The panel was informed at the start of this meeting that that the Notice of Meeting had been sent to Mrs Robinson's registered email address by secure email on 2 July 2024.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, the time, dates and the fact that this meeting was to be heard virtually.

In the light of all of the information available, the panel was satisfied that Mrs Robinson has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

## **Decision and reasons to amend the schedule of charge**

The panel had regard to the evidence before it and noted that the dates in charge 2 aligned with Schedule 2 but this was not reflected in the charge.

Based on the evidence before the panel, the panel was of the view that this was a typographical error. It was satisfied that there would be no prejudice to Mrs Robinson by charge 2 being amended to reflect the alignment with Schedule 2. It therefore determined to amend charge 2 to ensure clarity and accuracy.

Upon hearing and accepting the advice of the legal assessor, the panel determined to amend charge 2 as follows:

- 2) Between 4 March 2022 - 8 July 2022 whilst in receipt of statutory sick pay/occupational/additional sick pay, undertook one or more shifts at the Greenfields Medical Centre as set out in schedule 2.

## Details of charge (as amended)

That you, a registered nurse whilst employed at the Linden Medical Group (the Practice):

- 1) Between 4 March 2022 - 1 June 2022, whilst absent from the Practice after submitting sick notes/claiming you were not fit for work, undertook one or more shifts at the Greenfields Medical Centre as set out in schedule 1.
- 2) Between 4 March 2022 - 8 July 2022 whilst in receipt of statutory sick pay/occupational/additional sick pay, undertook one or more shifts at the Greenfields Medical Centre as set out in schedule 2.
- 3) Between 22-27 June 2022 whilst absent from the Practice due to claiming bereavement/compassionate leave, undertook one or more shifts at Greenfields Medical Centre as set out in Schedule 3.
- 4) Between 25 September 2022 - 7 October 2022 whilst absent from the Practice/after disclosing that [PRIVATE], undertook one or more face to face shifts at Greenfields Medical Centre as set out in schedule 4.
- 5) Worked one or more face to face shifts at Greenfield Medical Centre whilst [PRIVATE] as set out in schedule 4.
- 6) Your actions in one or more of charges 1, 3, & 4 were dishonest in that you sought to mislead your employers about your fitness to work/sickness/personal bereavement, so that you could undertake shifts at Greenfield Medical Centre.
- 7) Your actions in charge 2 were dishonest in that you claimed sick/occupational/additional pay from your substantive employer whilst simultaneously working shifts for the same/similar role, at the Greenfield Medical Centre.

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

Schedule 1: Shifts undertaken at Greenfields Medical Centre whilst claiming sickness/not fit for work;

1. 7 March 2022
2. 8 March 2022
3. 9 March 2022
4. 11 March 2022
5. 14 March 2022
6. 16 March 2022
7. 17 March 2022
8. 3 April 2022
9. 5 April 2022
10. 6 April 2022
11. 8 April 2022
12. 14 April 2022
13. 18 April 2022
14. 19 April 2022
15. 20 April 2022
16. 21 April 2022
17. 22 April 2022
18. 25 April 2022
19. 26 April 2022
20. 27 April 2022
21. 28 April 2022
22. 29 April 2022
23. 3 May 2022
24. 4 May 2022
25. 11 May 2022
26. 15 May 2022
27. 16 May 2022
28. 17 May 2022
29. 18 May 2022
30. 19 May 2022
31. 23 May 2022
32. 30 May 2022

33.31 May 2022

34.1 June 2022

Schedule 2. Shifts undertaken at Greenfield Medical Centre whilst in receipt of statutory sick pay/occupational pay;

1. 7 March 2022
2. 8 March 2022
3. 9 March 2022
4. 11 March 2022
5. 14 March 2022
6. 16 March 2022
7. 17 March 2022
8. 3 April 2022
9. 5 April 2022
10. 6 April 2022
11. 8 April 2022
12. 14 April 2022
13. 18 April 2022
14. 19 April 2022
15. 20 April 2022
16. 21 April 2022
17. 22 April 2022
18. 25 April 2022
19. 26 April 2022
20. 27 April 2022
21. 28 April 2022
22. 29 April 2022
23. 3 May 2022
24. 4 May 2022
25. 11 May 2022
26. 15 May 2022
27. 16 May 2022
28. 17 May 2022
29. 18 May 2022

30.19 May 2022  
31.23 May 2022  
32.30 May 2022  
33.31 May 2022  
34.1 June 2022  
35.6 June 2022  
36.7 June 2022  
37.9 June 2022  
38.13 June 2022  
39.14 June 2022  
40.15 June 2022  
41.16 June 2022  
42.20 June 2022  
43.22 June 2022  
44.23 June 2022  
45.27 June 2022  
46.28 June 2022  
47.29 June 2022  
48.4 July 2022  
49.5 July 2022  
50.6 July 2022  
51.7 July 2022

Schedule 3. Shifts undertaken at Greenfields Medical Centre whilst absent from the Practice due to claiming bereavement/compassionate leave;

1. 22. June 2022
2. 23 June 2022
3. 27 June 2022
4. 28 June 2022
5. 29 June 2022

Schedule 4. Shifts undertaken at Greenfields Medical Centre whilst [PRIVATE];

1. 26 September 2022
2. 27 September 2022

3. 28 September 2022
4. 29 September 2022
5. 3 October 2022
6. 4 October 2022
7. 5 October 2022
8. 6 October 2022

### **Background as taken from the NMC statement of case**

Mrs Robinson was employed by Linden Medical Practice (the Practice) from 5 May 2015 to 10 October 2022 as a Practice Nurse. She was initially contracted to work part-time i.e. 26 hours per week.

Mrs Robinson also worked as a self-employed contractor from around 29 June 2018 as a nurse at Greenfields Medical Centre (Greenfields), holding regular nursing clinics and sessions with patients. On occasion she worked from home. Her responsibilities were the same/similar to those she had at the Practice.

On or around 16 March 2022 Mrs Robinson submitted a statement of fitness to work (sickness certificate) to the Practice, which declared her unfit for work due to 'bereavement'. The sickness certificate was valid from 4 March 2022 to 17 April 2022.

On 30 March 2022 Mrs Robinson informed the Practice that she had contracted COVID-19 and was unwell. On 11 April 2022 she texted the Practice and confirmed that she remained unwell from COVID-19.

On or around 19 April 2022 Mrs Robinson submitted another sickness certificate to the Practice, which declared her unfit for work due to 'bereavement and post-COVID 19 lung problems.' The sickness certificate was valid from 17 April 2022 to 14 May 2022.

On or around 17 May 2022 Mrs Robinson submitted another sickness certificate to the Practice, which declared her unfit for work due to 'bereavement and post-Covid infection.' The sickness certificate was valid from 16 May 2022 to 29 May 2022. A retrospective

sickness certificate was subsequently provided to cover additional dates of 30 May to 1 June 2022.

Between 4 March 2022 and 1 June 2022, Mrs Robinson received her full salary from the Practice, except for in March, May, and April 2022, when she received statutory sick pay from the Practice. During this period, she also undertook and was paid for several shifts at Greenfields.

Mrs Robinson returned to the Practice on 6 June 2022, when a return-to-work meeting was held. On 10 June 2022, Mrs Robinson accepted an offer from the Practice to reduce her hours from 26 to 16 hours per week.

On 22 June 2022 Mrs Robinson informed the Practice that [PRIVATE] and would be unable to attend her upcoming shifts. She was consequently granted compassionate leave until 8 July 2022.

Between 22 June 2022 and 8 July 2022, Mrs Robinson received paid bereavement/compassionate leave from the Practice. During this period, she also undertook and was paid for several shifts at Greenfields.

On 25 September 2022 Mrs Robinson informed the Practice that she had contracted Covid-19 again, and the following day texted a picture of [PRIVATE] which she purported to be hers. On 4 October 2022 she informed the Practice that she had recovered. On that date and the following day, she [PRIVATE] and returned to work on 10 October 2022.

Between 25 September 2022 and 10 October 2022, Mrs Robinson received statutory sick pay from the Practice. During this period, she also undertook and was paid for several shifts at Greenfields.

It is alleged that on 29 September 2022 a patient of the Practice reported to a member of staff that they were aware Mrs Robinson was working at Greenfields. The patient had had an appointment with Mrs Robinson at the Practice cancelled due to Mrs Robinson's sick leave. The Practice's manager visited Greenfield's webpage and saw Mrs Robinson listed as a member of staff.



At a return-to-work meeting with the Practice's manager on 10 October 2022, Mrs Robinson denied working at Greenfields whilst she had been on sick/bereavement/compassionate leave.

The Practice made enquiries with Greenfields and received confirmation that Mrs Robinson had undertaken shifts at Greenfields whilst she had been on sick/bereavement/compassionate leave. Mrs Robinson then resigned. On or around 18 October 2022 an independent investigation was commissioned by the Practice, with which Mrs Robinson refused to engage. On conclusion of the investigation, the Practice submitted a referral to the NMC.

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

In reaching its decisions on the facts, the panel took into account all the documentary evidence in this case together with the written statement of case from the NMC. Mrs Robinson has not provided a response to the charges.

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 had regard to the written statements of the following witnesses on behalf of the NMC:

- Witness 1: Practice Manager of Linden Medical Practice (the Practice);
- Witness 2: Practice Manager of Greenfields Medical Centre (Greenfields)
- Witness 3: Independent Human Resources (HR) Consultant

- Witness 4: Assistant Manager at the Practice

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. The legal assessor confirmed the accuracy and relevance of the law and cases contained in the statement of case. He also directed the panel to the case of *Ivey v Genting Casinos UK Ltd* [2017] UKSC 67 in respect of the allegations of dishonesty.

The panel considered the documentary evidence provided by the NMC.

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

### **Charge 1**

That you, a registered nurse whilst employed at the Linden Medical Group (the Practice):

1. Between 4 March 2022 - 1 June 2022, whilst absent from the Practice after submitting sick notes/claiming you were not fit for work, undertook one or more shifts at the Greenfields Medical Centre as set out in schedule 1.

Schedule 1: Shifts undertaken at Greenfields Medical Centre whilst claiming sickness/not fit for work;

1. 7 March 2022
2. 8 March 2022
3. 9 March 2022
4. 11 March 2022
5. 14 March 2022
6. 16 March 2022
7. 17 March 2022
8. 3 April 2022
9. 5 April 2022
10. 6 April 2022
11. 8 April 2022

12. 14 April 2022  
13. 18 April 2022  
14. 19 April 2022  
15. 20 April 2022  
16. 21 April 2022  
17. 22 April 2022  
18. 25 April 2022  
19. 26 April 2022  
20. 27 April 2022  
21. 28 April 2022  
22. 29 April 2022  
23. 3 May 2022  
24. 4 May 2022  
25. 11 May 2022  
26. 15 May 2022  
27. 16 May 2022  
28. 17 May 2022  
29. 18 May 2022  
30. 19 May 2022  
31. 23 May 2022  
32. 30 May 2022  
33. 31 May 2022  
2. 34.1 June 2022

**This charge is found proved.**

In reaching this decision, the panel took into account the statement of Witness 1 and their exhibits. The statement of Witness 1 said:

*'During the period March 2022 to May 2022, Mrs Robinson had several absences from work and on 6 June 2022 a return to work meeting was held between myself and Mrs Robinson.'*

*...Prior to and after the reduction in Mrs Robinson's working hours, Mrs Robinson had a number of absences from Linden for both sickness and bereavement starting from 4 March 2022 to 8 July 2022.'*

The panel also took into account the statement of Witness 2 and their exhibits. Witness 2's statement said:

*'During this meeting Witness 3 asked me to confirm the dates that Mrs Robinson had been working at Greenfields from March 2022 up to October 2022. I provided this information to her.'*

*This record shows the dates that Mrs Robinson had logged on to Greenfields' system and was working for Greenfields which would also cover any remote work she may have done.'*

Having considered the statements from Witnesses 1 and 2, and their exhibits, the panel was satisfied that there was sufficient and cogent evidence to find charge 1 proved. It accordingly found charge 1 proved on the balance of probabilities.

## **Charge 2**

That you, a registered nurse whilst employed at the Linden Medical Group (the Practice):

2. Between 4 March 2022 - 8 July 2022 whilst in receipt of statutory sick pay/occupational/additional sick pay, undertook one or more shifts at the Greenfields Medical Centre as set out in schedule 2.

Schedule 2. Shifts undertaken at Greenfield Medical Centre whilst in receipt of statutory sick pay/occupational pay;

1. 7 March 2022
2. 8 March 2022
3. 9 March 2022
4. 11 March 2022
5. 14 March 2022
6. 16 March 2022

7. 17 March 2022
8. 3 April 2022
9. 5 April 2022
10. 6 April 2022
11. 8 April 2022
12. 14 April 2022
13. 18 April 2022
14. 19 April 2022
15. 20 April 2022
16. 21 April 2022
17. 22 April 2022
18. 25 April 2022
19. 26 April 2022
20. 27 April 2022
21. 28 April 2022
22. 29 April 2022
23. 3 May 2022
24. 4 May 2022
25. 11 May 2022
26. 15 May 2022
27. 16 May 2022
28. 17 May 2022
29. 18 May 2022
30. 19 May 2022
31. 23 May 2022
32. 30 May 2022
33. 31 May 2022
34. 1 June 2022
35. 6 June 2022
36. 7 June 2022
37. 9 June 2022
38. 13 June 2022
39. 14 June 2022
40. 15 June 2022

41. 16 June 2022  
42. 20 June 2022  
43. 22 June 2022  
44. 23 June 2022  
45. 27 June 2022  
46. 28 June 2022  
47. 29 June 2022  
48. 4 July 2022  
49. 5 July 2022  
50. 6 July 2022  
51. 7 July 2022

**This charge is found proved.**

In reaching this decision, the panel considered the statement of Witness 1 which said:

*'During this period (4 March-8 July 2022), Mrs Robinson was paid her salary in full except [sic] for in May 2022, when she received Statutory Sick Pay (SSP). Mrs Robinson was also paid additional sick pay in March 2022 and April 2022.'*

The panel also considered the statement of Witness 3 which said:

*'I also investigated whether Mrs Robinson was in receipt of both statutory sick pay (SSP) and occupational sick pay. I determined that Mrs Robinson was in receipt of full pay from Linden Medical Group for 3 months from 7 March 2022 to 1 June 2022 whilst being signed off as unfit for duty due to sickness, and was working as a locum at Greenfields Medical Practice and gaining further income from that position.'*

The panel further gave regard to the exhibits from Witnesses 1 and 3 which supported their statements.

The panel determined that there is sufficient and cogent evidence that Mrs Robinson, whilst in receipt of statutory sick pay/occupational/additional sick pay, undertook one or

more shifts at Greenfields. This charge is therefore found proved by the panel on the balance of probabilities.

### **Charge 3**

That you, a registered nurse whilst employed at the Linden Medical Group (the Practice):

3. Between 22-27 June 2022 whilst absent from the Practice due to claiming bereavement/compassionate leave, undertook one or more shifts at Greenfields Medical Centre as set out in Schedule 3.

Schedule 3. Shifts undertaken at Greenfields Medical Centre whilst absent from the Practice due to claiming bereavement/compassionate leave;

1. 22. June 2022
2. 23 June 2022
3. 27 June 2022
4. 28 June 2022
5. 29 June 2022

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

In reaching this decision the panel took into account the statement of Witness 1 which said:

*'On 26 June 2022, I received an email from Mrs Robinson informing me that she would not be returning to work until 8 July 2022, and advising that she had to organise [PRIVATE].'*

Witness 1's statement was supported by her exhibits.

The panel also took into consideration the statement of Witness 2 which said:

*'During this meeting Witness 3 asked me to confirm the dates that Mrs Robinson had been working at Greenfields from March 2022 up to October 2022.'*

The panel found that Mrs Robinson worked at Greenfields across the period as set out in the charge.

The panel determined that in all the circumstances and the documentary evidence provided to it, this charge is found proved on the balance of probabilities.

#### **Charge 4**

That you, a registered nurse whilst employed at the Linden Medical Group (the Practice):

4. Between 25 September 2022 and 7 October 2022 whilst absent from the Practice/after disclosing that [PRIVATE], undertook one or more face to face shifts at Greenfields Medical Centre as set out in schedule 4.

Schedule 4. Shifts undertaken at Greenfields Medical Centre whilst [PRIVATE];

1. 26 September 2022
2. 27 September 2022
3. 28 September 2022
4. 29 September 2022
5. 3 October 2022
6. 4 October 2022
7. 5 October 2022
8. 6 October 2022

**This charge is found proved.**

In reaching this decision the panel took into account the statement of Witness 1 which said:

*'Mrs Robinson was originally due to return to work on 7 October 2022, however she only actually returned to work on 10 October 2022. This was after Mrs Robinson had been booked off sick from 26 September 2022, up to and including 3 October 2022, after allegedly [PRIVATE].*



*On 10 October 2022, both myself and Witness 4, met with Mrs Robinson to enquire about the information we had received about her allegedly working at Greenfields whilst being booked off sick [PRIVATE]. Mrs Robinson denied that she was working at Greenfields or any other practice either as an employee or as a locum nurse.*

*I found this to be very suspicious because after initially receiving the original information I had checked Greenfields website on 10 October 2022 and found Mrs Robinson's name listed as one of their nurses.'*

The panel also took into account the exhibits provided by Witness 1 which supported her statement.

The panel was satisfied that this charge is found proved on the balance of probabilities.

### **Charge 5**

That you, a registered nurse whilst employed at the Linden Medical Group (the Practice):

5. Worked one or more face to face shifts at Greenfield Medical Centre whilst [PRIVATE] as set out in schedule 4.

Schedule 4. Shifts undertaken at Greenfields Medical Centre whilst [PRIVATE];

1. 26 September 2022
2. 27 September 2022
3. 28 September 2022
4. 29 September 2022
5. 3 October 2022
6. 4 October 2022
7. 5 October 2022
8. 6 October 2022

**This charge is found proved.**

In reaching this decision the panel took into account the statement from Witness 1 which said:

*'Mrs Robinson was originally due to return to work on 7 October 2022, however she only actually returned to work on 10 October 2022. This was after Mrs Robinson had been booked off sick from 26 September 2022, up to and including 3 October 2022, after allegedly [PRIVATE].*

*On 10 October 2022, both myself and Witness 4, met with Mrs Robinson to enquire about the information we had received about her allegedly working at Greenfields whilst being booked off sick [PRIVATE]. Mrs Robinson denied that she was working at Greenfields or any other practice either as an employee or as a locum nurse.*

*I found this to be very suspicious because after initially receiving the original information I had checked Greenfields website on 10 October 2022 and found Mrs Robinson's name listed as one of their nurses.'*

The panel also took into account the exhibits from Witness 3 which said:

*'...On Sunday 25th September SR reported via text message that she had [PRIVATE] and would not be attending for work the following day due to [PRIVATE]. SR offered to send a picture of [PRIVATE] claiming that this was a test she had personally undertaken which was duly forwarded to Witness 1.'*

The panel determined that, on the balance of probabilities, this charge is found proved.

## **Charge 6**

That you, a registered nurse whilst employed at the Linden Medical Group (the Practice):

6. Your actions in one or more of charges 1, 3, & 4 were dishonest in that you sought to mislead your employers about your fitness to work/sickness/personal bereavement, so that you could undertake shifts at Greenfield Medical Centre.

**This charge is found proved.**

In reaching this decision, the panel took into consideration all of the documentary evidence before it.

In applying the test set out in *Ivey v Genting Casinos UK Ltd* [2017] UKSC 67 the panel were first satisfied that Mrs Robinson knew what she was doing when she undertook shifts at Greenfields whilst absent from the Practice, she knew she was misleading the Practice and she had acted in the way she did in the knowledge that what she was doing was wrong.

The panel further considered that an ordinary, reasonable person would consider Mrs Robinson had been dishonest in this case as she knowingly undertook shifts at Greenfields whilst leading the Practice to believe she was unable to work due to sickness/personal bereavement.

The panel therefore found this charge proved.

### **Charge 7**

That you, a registered nurse whilst employed at the Linden Medical Group (the Practice):

7. Your actions in charge 2 were dishonest in that you claimed sick/occupational/additional pay from your substantive employer whilst simultaneously working shifts for the same/similar role, at Greenfields Medical Centre.

**This charge is found proved.**

In reaching this decision, the panel took into account its decision and reasons at charge 2.

The panel bore in mind that it had found that Mrs Robinson had undertaken shifts at Greenfields whilst receiving statutory sick pay from the Practice.

The panel was of the view that the ordinary, reasonable person would think that Mrs Robinson should not have undertaken shifts whilst receiving statutory sick/occupational/additional pay and would consider this to be dishonest.

Accordingly, the panel found this charge 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 Mrs Robinson'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, Mrs Robinson's fitness to practise is currently impaired as a result of that misconduct.

## **Representations on misconduct and impairment**

In coming to its decision, the panel had regard to the case of *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 NMC invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' ("the Code") in making its decision.

The NMC suggested specific relevant standards where Mrs Robinson's actions amounted to misconduct.

The NMC asked the panel to bear in mind its overarching objective to protect 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. The panel has referred to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

With regard to impairment the NMC invited the panel to find Mrs Robinson's fitness to practise impaired on public protection and public interest grounds stating that:

*'Mrs Robinson dishonestly abused her position as a registered nurse for her own financial gain. Consequently, appointments were cancelled, thus placing patients at risk of harm. Additionally, Mrs Robinson conducted face-to-face appointments with patients when [PRIVATE]. The NMC submit that the concern is not easily remediable and is more difficult to put right because the dishonesty is not directly linked to clinical practice. Insight, along with tangible and targeted remediation such as training and demonstrable nursing competency, cannot remedy this type of concern.*

*The NMC submit that Mrs Robinson has displayed no insight. She has engaged minimally with the NMC's proceedings. She has not, for example, provided a reflective piece to explain why she worked at the Practice whilst claiming statutory pay from Greenfields, or demonstrate an understanding of the seriousness of conducting face-to-face appointments with patients soon after [PRIVATE]. The Panel can therefore not be reassured that the risk of repetition has been alleviated.*

*... . We consider there is a public interest in a finding of impairment being made in this case to declare and uphold proper standards of conduct and behaviour. It is submitted that a member of the public apprised of the facts, would be shocked to hear that a registered nurse who had deliberately placed vulnerable patients at risk [PRIVATE] and dishonestly claimed statutory pay was allowed to practice without restriction. As such, the need to protect the wider public interest calls for a finding of impairment to uphold standards of the profession, maintain trust and confidence in the profession and the NMC as its regulator. Without a*

*finding of impairment, public confidence in the profession, and the regulator, would be seriously undermined.*

*Consequently, the NMC submit that a finding of impairment is therefore also necessary on the ground of public interest.'*

The panel also had regard to Mrs Robinson's email to the NMC, dated 27 September 2023, which said:

*"I followed the surgeries [sic] protocols for Covid and did as they asked. They said I had to be off for 5 days regardless if I had a negative test. Which I did have. Each surgery is different about when they allow you to work but I followed their policy for that surgery.*

*I had actually handed my notice into Stapleford on 10/10/2022 with immediate affect [sic] as I couldn't work there. [PRIVATE]. When I worked there I was only allowed in the room I was allocated to work that day as they had previously sent me home [PRIVATE] scored high on the assessment chart they had been told they had to do.*

*While I was on sick leave from them I found out that they had given my room which I had worked in for 4 years to a new nurse which they employed to replace me and I was told I would have to work from a room that was free on the 2 days I worked there. Their intentions was to make me leave as they didn't have work for me as I was told by one of the gps at one of the meetings, when I was also told they were [sic] reducing my hours. Then all of a sudden they wanted me doing my original hours but had no where for me to work as they wanted me to do split shifts and mornings and when the time came to work all the weekends as the other nurses didn't want to do them and I lived near the surgery so it was easier for me to do this.*

*They were [sic] aware I work at other surgeries as I had asked for my hours to be reduced to 18 hours but they said they would only give me 16 unless I worked split shifts on a Monday to cover their extended hours as the other*

nurses didn't want to do it and come to work in the mornings as that was when bloods could be taken. They had in fact done a reference for another job knowing I would work there when I wasn't working at Linden. It was only before I left that they said I couldn't work anywhere else but there even in my own time and I told them they couldn't tell me that to which I was told if I left they would make sure I didn't work anywhere else again.

Since leaving I have been told that Witness 1 told staff I didn't want them in my room but the truth is it was [PRIVATE] that as I was insisting on going back to work in the surgery that they needed to give me time to clean after patients. [PRIVATE]. I felt like I was being punished for this by being singled out and clearly talked about. I had an incident where a member of staff sent me a message about myself that was clearly intended for someone else, when I told fares about this he did nothing. That was the day when [PRIVATE]. [PRIVATE], I was told you can't be off as you were off last year [PRIVATE]. I told fares I was not going to be in for 2 weeks and not to pay me but [PRIVATE] so wouldn't be asking again. That place made me feel like a leprechaun [sic]. I am so grateful for my family and the support I have had from them.

My regret is I wasn't strong enough to leave until The 10/10/22 and even then they made my life hell. I should have listened when I was told if I left they would make sure I didn't work anywhere else.

I can't do this as I am in a good place. I'm not in any paid work but I am doing volunteering as a befriender for people who have experienced the loss of a baby... If leaving Stapleford means I never nurse again so be it because of them I have been to hell and back. I am ashamed of how I let Stapleford treat me so badly and [PRIVATE] but My life has changed so much I no longer trust anyone. I only go out when I need to and return home as quickly as I can. I don't answer my phone or the front door and now have a ring doorbell. My family have said I am slowly getting better, the problem is I try to put on a brave face. When [PRIVATE] even though it was in Covid times and we weren't allowed I still blame myself. [PRIVATE]. My heart is forever broken. I need to concentrate on my family...

*With a heavy heart I have decided that even though I was a good nurse and loved my job and helped a lot of people I need to stop all this and remove myself of the nmc register, we may need nurses but at what cost, this is what will happen anyway so let's get it over with now...maybe one day I will find the confidence to do some kind of paid work. I need to put that horrible place out of my mind and move on.'*

## **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 Mrs Robinson's actions did fall significantly short of the standards expected of a registered nurse, and that Mrs Robinson's actions amounted to a breach of the Code. Specifically:

**'1 Treat people as individuals and uphold their dignity**

*To achieve this, you must:*

1.2 *make sure you deliver the fundamentals of care effectively*

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

*To achieve this, you must:*

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*

19.3 *keep to and promote recommended practice in relation to controlling and preventing infection*

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**

*To achieve this, you must:*

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



**21 Uphold your position as a registered nurse, midwife or nursing associate**

*To achieve this, you must:*

- 21.3 *act with honesty and integrity in any financial dealings you have with everyone you have a professional relationship with, including people in your care'*

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct.

However, the panel was of the view Mrs Robinson's actions did fall seriously short of the conduct and standards expected of a nurse and therefore amounted to misconduct.

Having considered the financial charges as a whole, the panel determined that Mrs Robinson's actions were serious, in particular the dishonesty. Mrs Robinson had been working as a nurse at Greenfields whilst receiving sick/bereavement pay from the Practice. This misconduct took place for a period of some six months.

The panel also took into account that Mrs Robinson during this period had worked as a nurse whilst [PRIVATE]. The panel noted that Mrs Robinson had said that [PRIVATE]. It took into account that the misconduct had taken place during a global pandemic, when risk of infection to vulnerable patients was high and in some cases life threatening.

Mrs Robinson would have been aware of the need to follow local and national prevention control policies and procedures and failed to do so. The panel determined that Mrs Robinson put vulnerable patients at risk of contracting COVID-19 by working [PRIVATE]. The panel was of the view that Mrs Robinson prioritised her own personal and financial position over patient safety.

The panel accordingly concluded that Mrs Robinson's actions were extremely serious and unprofessional to the extent that they would be seen as deplorable by other members of the profession. They amounted to professional misconduct.

## Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Mrs Robinson's 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 and uphold standards of care. 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, 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 in her Shipman report 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/their fitness to practise is impaired in the sense that S/He/They:*

- 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 first considered whether any of the limbs of the Shipman test were engaged. It was of the view that at the time of the incidents, Mrs Robinson's placed vulnerable patients at an unwarranted risk of harm.

The panel determined that Mrs Robinson's misconduct brought the nursing profession into disrepute. Mrs Robinson's misconduct also constituted serious breaches of the fundamental tenets of the nursing profession as she failed to uphold the standards and values of the nursing profession. The panel had also found two charges of dishonesty proved against Mrs Robinson.

The panel therefore determined that limbs a, b, c and d of the Shipman test were engaged.

In considering whether Mrs Robinson had demonstrated any insight into her misconduct or any strengthening of practice, the panel noted that there had been no meaningful

engagement by Mrs Robinson with the NMC since September 2023. Mrs Robinson had not provided a reflective piece, character references, or evidence of any steps she had taken to address the concerns. The panel noted that Mrs Robinson had stated that she no longer wished to practise as a nurse. The panel therefore had no evidence of insight or strengthening of practice before it to consider. It was of the view that its multiple findings of dishonesty relating to Mrs Robinson's attempts to conceal her undertaking of shifts at Greenfields whilst receiving sick pay from the Practice was evidence of a deep-seated attitudinal issue. The panel determined that the facts found proved would be difficult to remediate.

The panel determined that Mrs Robinson lacked compassion towards the vulnerable patients under her care in attending work whilst knowingly infected with COVID-19. The panel found that Mrs Robinson showed a complete disregard for the safety and wellbeing of her patients and the risk she posed.

The panel also took into account the fact that the misconduct identified was not an isolated incident, but dishonesty that was sustained over a period of time and multiple face-to-face clinics were undertaken whilst [PRIVATE].

In light of there being no evidence of insight or strengthening of practice, the panel determined that there was a high risk of the misconduct being repeated. It therefore found that a finding of impairment is necessary on the ground of public protection.

The panel had regard to the serious nature of Mrs Robinson's misconduct and determined that public confidence in the profession would be undermined if a finding of impairment were not made in this case, particularly as this misconduct related to dishonesty and putting vulnerable patients at risk of harm. It was of the view that a fully informed member of the public, aware of the proven charges in this case, would be very concerned if Mrs Robinson were permitted to practise as a registered nurse without restrictions. For this reason, the panel determined that a finding of current impairment on public interest grounds is also required. It determined that this finding is necessary to mark the seriousness of the misconduct, the importance of maintaining public confidence in the nursing profession, and to uphold the proper professional standards for members of the nursing profession.

Having regard to all of the above, the panel was satisfied that Mrs Robinson's fitness to practise is currently impaired on both public protection and public interest grounds.

## **Sanction**

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

In reaching this decision, the panel 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.

## **Representations on sanction**

The panel noted that in the Notice of Meeting, dated 2 July 2024, the NMC had advised Mrs Robinson that it would seek the imposition of a striking-off order if the panel found Mrs Robinson's fitness to practise currently impaired.

## **Decision and reasons on sanction**

Having found Mrs Robinson'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:

- Deliberately placing patients at a risk of harm by attending face-to-face clinics whilst [PRIVATE].
- Calculated dishonesty for financial gain.

- A pattern of misconduct over a prolonged period of time.
- A lack of insight, remorse or remediation.
- Deep seated behavioural and attitudinal concerns.

With regard to mitigating features, the panel took into account that at the time of the incidents Mrs Robinson was going through difficult personal circumstances, namely [PRIVATE]. However, in light of the circumstances of the misconduct and the charges found proved, the panel found that they carry little weight.

As required by Article 29(3) of the Nursing and Midwifery Order 2001, the panel first considered (pursuant to Article 29(4)) whether to undertake mediation or to take no further action. It considered that neither of these outcomes would be appropriate as neither would restrict Mrs Robinson's practice. The public would therefore not be protected, and the public interest would not be satisfied.

The panel then moved on to consider the four available sanctions set out in Article 29(5) of the Order. The panel first determined that a caution order would again not be appropriate as it would not restrict Mrs Robinson's practice: the public would not be protected, and the public interest would not be satisfied.

The panel next considered whether placing conditions of practice on Mrs Robinson's registration would be a sufficient and appropriate response. In the panel's judgement Mrs Robinson's misconduct and lack of insight were too serious for conditions of practice to be an adequate or appropriate order. Also, the panel was of the view that the misconduct identified in this case could not be addressed through retraining and was extremely difficult to remediate. In the panel's view Mrs Robinson's misconduct revealed deep-seated attitudinal problems including dishonesty. It determined that, given the seriousness of the concerns, the deep-seated attitudinal problems and Mrs Robinson's lack of insight, there were no proportionate and workable conditions that could be formulated. In addition, there is no indication that Mrs Robinson would be willing to engage with any conditions. Consequently, the panel decided that a conditions of practice order would neither protect the public nor 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:

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

The panel found that Mrs Robinson's misconduct was deliberate dishonesty repeated over a period of some six months. The panel noted that there was no information before it to indicate whether Mrs Robinson had taken any steps to remediate her misconduct. The panel determined that the misconduct 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 Mrs Robinson's actions were incompatible with Mrs Robinson remaining on the register.

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

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*

- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

The panel determined that Mrs Robinson's actions, in respect of COVID-19 in particular, put vulnerable patients at risk of harm. The panel found that Mrs Robinson had shown no insight or remorse for her actions and there remained a high risk of repetition of her misconduct. Mrs Robinson placed her own personal interests above the potential risk of harm to patients. Mrs Robinson is therefore still a risk to public safety should she practise as a registered nurse.

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

Balancing all of these factors and after taking into account all the evidence before it, the panel determined that the appropriate and proportionate sanction is that of a striking-off order.

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

This will be confirmed to Mrs Robinson in writing.

### **Interim order**

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of



this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Mrs Robinson's own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

### **Representations on interim order**

The panel took account of the written representations made by the NMC that an interim suspension order is necessary for the protection of the public and is otherwise in the public interest. The NMC stated that the interim order should be imposed for a period of 18 months to cover the initial period of 28 days before the sanction comes into effect, and the time taken for the Court to consider any appeal in the event that one is lodged.

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

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

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order.

The panel therefore imposed an interim suspension order for a period of 18 months due to cover any appeal period.

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

That concludes this determination.