

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

**Substantive Hearing
Monday 19 August 2024 – Friday 23 August 2024**

Virtual Hearing

Name of Registrant: **Wendy Thompson**

NMC PIN 12K0866E

Part(s) of the register: Registered Nurse – Sub Part 1
Mental Health Nurse L1 – March 2013

Relevant Location: London

Type of case: Misconduct

Panel members: Deborah Jones (Chair, lay member)
Sukhdeep Rayt (Registrant member)
Kiran Bali (Lay member)

Legal Assessor: Richard Tyson

Hearings Coordinator: Shela Begum (Monday 19 August 2024 –
Thursday 22 August 2024)
Jack Dickens (Friday 23 August 2024)

Nursing and Midwifery Council: Represented by Alban Brahim, Case Presenter

Miss Thompson: Not present and unrepresented

Facts proved: Charges 1, 2, 3, 4 and 5

Facts not proved: None

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 Thompson was not in attendance and that the Notice of Hearing letter had been sent to Miss Thompson's registered email address by secure email on 26 June 2024.

Mr Brahim, 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 and, amongst other things, information about Miss Thompson's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

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

Decision and reasons on proceeding in the absence of Miss Thompson

The panel next considered whether it should proceed in the absence of Miss Thompson. It had regard to Rule 21 of the Rules and heard the submissions of Mr Brahim who invited the panel to continue in the absence of Miss Thompson. He submitted that Miss Thompson had voluntarily absented herself.

Mr Brahim referred the panel to an email from Miss Thompson dated 18 June 2024 in which she stated:

“Resending this notification that I agree for the panel to proceed on my absence, [PRIVATE].”

Mr Brahimy submitted that, aside from her confirming her non-attendance, there had been no engagement by Miss Thompson with the NMC in relation to this hearing and, as a consequence, there was no reason to believe that an adjournment would secure her 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 of the Rules 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 Thompson. In reaching this decision, the panel has considered the submissions of Mr Brahimy, the representations from Miss Thompson, 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:

- No application for an adjournment has been made by Miss Thompson
- Miss Thompson has confirmed that she is content for the hearing to proceed in her absence
- There is no reason to suppose that adjourning would secure her attendance at some future date
- Two witnesses have been warned to attend this hearing to give live evidence

- 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 in 2020
- Further delay 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 Thompson in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her at her registered email address, she 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, this 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 Thompson'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 Thompson. The panel will draw no adverse inference from Miss Thompson's absence in its findings of fact.

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

At the outset of the hearing, Mr Brahimi made an application for parts of this case be held in private on the basis that proper exploration of Miss Thompson's case involves [PRIVATE]. The application was made pursuant to Rule 19 of the Rules.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold

hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

The panel determined to go into private session in connection with [PRIVATE].

Details of charge

That you, a registered nurse:

1. Between July and December 2020 made one or more of the claims in Schedule A which you had not incurred.
2. One or more of your actions at Charge 1 were dishonest in that you knew you had not incurred the same.
3. On 13 January 2021 used your NHS email address to send an email to NHS Cannock CHASE CCG, incorrectly stating:
 - a. I am writing to inform you that [Person A] who works with me in the community as my HCA, comes under the classification as Frontline Healthcare Worker;
 - b. Would you be so kind as to add [them] to your urgent COVID 19 vaccine register. [Person A] is in daily contact with patients, therefore in a most vulnerable position
4. Your actions at Charge 3 were dishonest in that you:
 - a. Knew some or all of the information contained within the email referred to at Charge 3 was incorrect;
 - b. Intended to create the misleading impression that Person A was a Frontline Healthcare Worker and/or in daily direct contact with patients;
 - c. Used your position as a registered nurse with the intention of securing a COVID 19 vaccine for Person A.
5. Some or all of your actions at Charge 3 lacked integrity.

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

In light of Miss Thompson's absence, the panel determined that none of these charges had been admitted.

Background

The charges arose whilst Miss Thompson was employed as a registered nurse by CHASE in a community based role. Abbott Nutrition Nursing (Abbott) are a team engaged by CHASE.

It is alleged that between July and December 2020, Miss Thompson claimed money for expenses that she had not incurred, specifically money for miles travelled, parking fees and lunch money. It is alleged that Miss Thompson did so dishonestly in that she knew she was not entitled to these fees but claimed them anyway.

It is also alleged that on 13 January of 2021, Miss Thompson had used her position as a nurse to dishonestly request a COVID-19 vaccine for Person A. She allegedly created the impression that Person A was a healthcare assistant who was accompanying her on patient visits and therefore a frontline healthcare worker in direct contact with patients.

Decision and reasons on facts

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

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

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: Project Manager, CHASE
Healthcare
- Witness 2: Senior South Nurse Manager, Abbott
Laboratories Nurse Manager (at the
relevant time)

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 the NMC.

The panel considered the evidence it has heard from Witnesses 1 and 2. It found that the evidence provided by them was clear and cogent. The evidence provided by both witnesses were consistent with one another and was not contradictory. The panel found both witnesses to be credible and reliable witnesses who were able to clearly explain and clarify any matters which required further exploration. The panel noted that Witness 2 made reference to individual patients' notes and had reviewed those notes to determine whether there was any evidence to support the expenses claimed. The panel did not have sight of any of those patient notes. The panel was satisfied that it could rely on Witness 2's account of what she ascertained from the patient notes as it saw no reason or suggestion why she might be giving a false impression of those notes.

The panel noted that Miss Thompson had suggested in material provided to the NMC that the documentation provided by the witnesses in relation to charges 1 and 2 had been

fabricated or tampered with by the witnesses due to a formal complaint made by Miss Thompson of bullying/harassment by an Abbott Nurse Manager. However, the panel did not have any evidence before it to support any claims that Miss Thompson had been bullied/harassed by any member of staff. Nor did it have any documentation to show that concerns about the accuracy of the alleged expenses defaults had been raised by Miss Thompson to Abbott or CHASE before she resigned.

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

Charge 1

1. Between July and December 2020 made one or more of the claims in Schedule A which you had not incurred.

This charge is found proved.

In reaching this decision, the panel took into account the documentary evidence which included the CHASE Expenses Policy, the Expense Audit spreadsheet (EAS) for Miss Thompson, the printout of Miss Thompson's working and non-working days, Miss Thompson's work diary and timesheet. It also took into account the live evidence from Witnesses 1 and 2.

The panel noted that Schedule A sets out the following dates in 2020: 27 July 30 July, 14 August, 18 August, 24 August, 26 August, 28 August, 1 September 3 September, 11 September, 22 September, 29 October, 12 November, 19 November, 23 November, 1 December, 3 December, 10 December, 21 December and 22 December.

The panel considered each of the dates individually to identify whether claims had been made and whether there was evidence that they had not been incurred by Miss Thompson.

27 July 2020 – The panel could see from the EAS that Miss Thompson claimed 36 miles for this date. In the comments section of the sheet it stated *“No evidence of leaving the house (no visit notes only calls)”*. The panel also had regard to Miss Thompson’s work diary for this date which showed no clear evidence that she would have had to travel for work. The panel noted that there was a reference to ‘Kent Visits’ in the diary for this date but noted that if a visit to Kent did take place on this date then that would have incurred far more mileage than 36 miles. The panel also noted that Witness 2 confirmed in her live evidence that patient notes were checked and that there was no suggestion of any face-to-face visits.

30 July 2020 – The panel noted from the EAS that Miss Thompson claimed 46 miles, £4 for parking and lunch. The comment section of the sheet stated *“No evidence of leaving house”* and *“Time 16:35 -17:35 in Wandsworth (non Abbott area) and no evidence of visits that day”*. The panel had regard to Miss Thompson’s work diary for this date which showed no reason for her to leave the house and incur any mileage. The panel had regard to the receipt for the parking which showed that the duration of the parking session was between 4:35pm and 5:35pm and occurred in the Wandsworth area. The panel noted that this would have been outside of the Abbott area and so Miss Thompson would not have been required to travel or park here for work purposes. The panel also noted Witness 2’s written statement stated:

“Exhibit [Witness 2]/01 shows that on this date, there was no evidence of Miss Thompson leaving house, as shown in exhibit [Witness 2]/02, there is only evidence of calls. I have confirmed this by checking the notes for each of the patients.”

14 August 2020 – The panel could see from the EAS that Miss Thompson claimed 33 miles and the comments section stated *“No evidence of leaving house”*. The panel also had regard to Miss Thompson’s work diary for this date and noted that there was a reference to “UCLH” that was not clear on whether this was a face to face visit or not. The panel also noted Witness 2’s written statement stated:

“...on this date there is no evidence in Miss Thompson’s work diary ([Witness 2]/02) of her leaving the house as claimed for in [Witness 2]/01. Only calls and follow up calls are listed.”

During her evidence, Witness 2 clarified that the patient notes were checked at the time and no suggestion of any face-to-face visits were documented within the notes. Although the panel did not have sight of any patients notes, it accepted the evidence of Witness 2 that the notes would have been checked and if there were any face-to-face visits these would have been documented.

18 August 2020 – The panel could see from the EAS that Miss Thompson claimed 34 miles and the comments section stated “No evidence of leaving house (emailed not hand delivered)”. The panel noted that in Witness 2’s written statement, she stated:

“I believe Miss Thompson may have done the virtual training as listed. However, while she potentially could have gone out to hand deliver the feeding regime, there were no notes provided where it says ‘see notes’. The notes state: 17:40 “call from patients mother – requested she had regime”, advised and reassured. As stated in [Witness 2]/01, these notes were emailed, not hand delivered.”

24 August 2020 – The panel noted that the EAS indicates that Miss Thompson claimed £2.50 Parking. The EAS stated “in Balham (not Abbott area)”. The panel noted that Miss Thompson’s diary for this date mentioned “UCLH” and “TW3 tube change”. However, it had regard to the parking transaction detail which shows that a £2.50 charge for parking in the Balham area. This is not consistent with the notes in the diary and the panel has heard evidence that Balham was not an area that was covered by Abbott nor was it anywhere near UCLH or the TW3 area.

26 August 2020 - The panel noted that the EAS indicates that Miss Thompson claimed £9.85 for parking. The panel had regard to the parking receipt for this date which showed

that the duration of the parking was between 12:55 and 15:05 and charged £9.85. The EAS stated in the comments section “Non-working day”. The panel heard in evidence from Witnesses 1 and 2 that Miss Thompson had requested to go from working five days to four days and that Wednesday was agreed as the non-working day for Miss Thompson and the 26 August 2020 was a Wednesday. There was no evidence before the panel which showed any reason Miss Thompson would incur parking costs on a non-working day.

28 August 2020 – The panel noted that the EAS indicates that Miss Thompson claimed £15 for parking. The comments section stated “*C&W receipt, No receipt with price. Time 17:52. Not in C&W this day in TW7*”. The panel had regard to the parking ticket for this date which showed that parking occurred in Chelsea and Westminster area and was time stamped for entry at 17:52. The panel noted that Miss Thompson’s diary for this date did not show any reason for travel to the Chelsea and Westminster area and further, there is no entries beyond 5pm which stated “Weekly Boot Stock Reminder” which does not suggest a requirement for any travel nor does it correlate with the entry time stamp on the ticket.

01 September 2020 - The panel noted that the EAS indicates that Miss Thompson claimed £15 for parking and the comments section stated: “*On annual leave this day.*” The panel also had regard to Miss Thompson’s diary which indicated that she was on annual leave for this date.

03 September 2020 – The panel noted that the EAS indicates that Miss Thompson claimed 28 miles and £7.90 for parking and the comments section stated “*No evidence of leaving home*” and “*Wandsworth parking date 01/09/2020 when on annual leave*”. The panel had regard to Miss Thompson’s diary and the only entry for this date was a 4pm virtual meeting which occurred via Teams. The panel also noted the transaction details for the parking which showed that the date of transaction was 1 September 2020 when Miss Thompson was on annual leave but that the parking was for 3 September 2020 and charged £7.90. The panel noted that Miss Thompson’s work diary showed no reason to leave the home to incur fees for mileage or parking.

11 September 2020 – The panel noted that the EAS indicates that Miss Thompson claimed 24 miles and the comment section stated “No evidence of leaving house (pt seen 08/10/2020)”. The panel noted that Miss Thompson’s diary for this date stated “arrange to visit” and “12Fr Entral change MR”. The panel had regard to Witness 2’s written statement which stated:

“The first entry for this date in [WITNESS 2]/02 refers to making arrangements to visit (this would have been phone call)

The tube-change later this day refers to a patient who was seen on 08 October, not 11 September. The notes for this patient say that their tube was changed on 9 September, so it wouldn’t have needed changing again”

The panel also heard from Witness 2 that there was no evidence within the patient notes that Miss Thompson had visited the patient on this date to change any tubes. The panel accepted the evidence of Witness 2 in relation to 11 September 2020 and saw that there was no evidence to suggest that Miss Thompson would have been required to leave the house and travel.

22 September 2020 – The panel noted that the EAS indicates that Miss Thompson claimed 29 miles on this date and the comment section stated “No evidence of leaving house”. The panel also had regard to Miss Thompson’s diary for this date which stated “121 - Wendy” but there is no evidence to suggest that this meeting took place in a physical setting as opposed to a virtual setting. The panel had regard to Witness 2’s written statement which stated:

“The 1-2-1 meeting with Miss Thompson’s manager here would most likely have been held virtually at that time. Then I assume the entry for ‘tube me and pump [...] relates to training she would have carried out virtually.”

The panel accepted the evidence of Witness 2 and accepted that it was more likely than not that this meeting took place virtually particularly in light of the fact that this occurred

during the height of the Covid 19 pandemic and that any work which could be carried out remotely was encouraged be completed in that manner.

29 October 2020 – The panel noted that the EAS indicates that Miss Thompson claimed 39 miles. The comment section stated “*No evidence of leaving house*”. The panel had regard to the diary for Miss Thompson which had an entry at 10am which stated “TW5 prophylactic RIG bwc”. It also showed an entry at 10:30 which stated “calls to x2 patients troubleshoots...”. The panel had regard to Witness 2’s written statement which stated:

“The entry on the corresponding date in [WITNESS 2]/02 labelled ‘TW5’ (relates to the postcode) is for balloon water change training, in which a nurse would go to see a patient and teach them how to change the water themselves. There are no notes of this happening on that date. Instead, it looks like that training was done on 2 November (She put in a claim for lunch allowance and mileage for this on 2 November as well).”

12 November 2020 – The panel noted that the EAS indicates that Miss Thompson claimed 52 miles. The comment section on the EAS stated “No evidence of leaving house”. The panel had regard to Miss Thompson’s diary for this date which had an entry at 10am which stated: “Follow up pt should be back from Belfast.” The panel heard during live evidence from Witness 2 that this patient’s notes showed that this follow up occurred by way of a telephone call as the patient had not in fact returned from Belfast at that time.

19 November 2020 – The panel noted that the EAS indicates that Miss Thompson claimed 42 miles. The comment section on the EAS stated “*No evidence of leaving house*”. The panel had regard to Witness 2’s written statement which stated:

“I believe that Miss Thompson’s diary entry on 19 November ‘change could not fund’ relates to a Balloon Gastrostomy Tube, and that she couldn’t find the tube when she went to the patient. I don’t believe that Miss Thompson updated the patient’s notes to say that she had visited. Someone else did the

tube change on 26 November.”

However, it noted that Miss Thompson’s diary showed an entry on this date at 10:30 which stated: *“bgt CHANGE could not fund tube when arrived”*.

The panel noted that Witness 2’s evidence was that she did not believe Miss Thompson had updated the patients notes to state that she had visited but does not specifically say that she had a doubt about whether Miss Thompson had visited the patient or not. Further, the panel noted that Witness 2’s evidence suggests that the patient’s tube was changed on 26 November instead of 19 November but it also noted that Miss Thompson’s diary entry suggests that upon arrival at the patient’s home she had some difficulty with the tube. In relation to this date, the panel was not satisfied that the evidence is sufficient to prove that Miss Thompson had made claims which she had not incurred as there is a suggestion within the evidence that she had travelled to and arrived at the patient’s home but had not managed to change the tube and did not update the patient notes.

23 November 2020 – The panel noted that the EAS indicates that Miss Thompson claimed 49 miles. The comment section on the EAS stated “No evidence of leaving house”. The panel noted that the three entries in Miss Thompson’s diary for training which all appear to be virtual events as they all state “Webex”.

01 December 2020 – The panel noted that the EAS indicates that Miss Thompson claimed 47 miles. The comment section on the EAS stated “No evidence of leaving house”. The panel noted that there was an entry in Miss Thompson’s diary for this date which read “TBC 1s HV”. The panel had regard to Witness 2’s written statement which stated:

“I do not know what TBC means in the entry for this date on [Witness 2]/02. There were no notes for the visits on this day. Where it says 1s HV, this could refer to a home visit, but she did not do the home visit for this patient on this date. She did it on 17 December instead. This will have been a first review visit as the patient was due their first advance and rotate of their tube. ‘TBC’ will have

meant that she still needed to confirm this visit with the patient”

03 December 2020 – The panel noted that the EAS indicates that Miss Thompson claimed 54 miles and £10.61 for parking. The comment section on the EAS stated *“No evidence of leaving house”* and *“Parking claimed but transaction was 2nd”*. The panel had regard to the Miss Thompson’s diary for this date which stated: *“BGT competency with Yemi tbc”*. The panel had regard to Witness 2’s written statement which stated:

“On this date, referred to in [WITNESS 2]/02, Yemi is clinical nurse specialist (CNS), they do this competency yearly. Miss Thompson could only have completed the competency listed if she had booked that in. She didn’t do any competencies on this date as the Clinical Nurse Specialist, [...], had a CNS visit booked in with another nurse that day. The other two trainings listed would have been virtual, and she would have been running this. These were not held face to face due to COVID, so there was no evidence of her leaving the house. Parking was claimed for these, but the transaction date on the statement provided was for 2 December. Miss Thompson’s appointments on 3 December were virtual and she didn’t have any visits in for 2 December.”

The panel had regard to the bank statement which showed that the transaction date was 2 December 2020 for this parking payment but was debited on 3 December 2020 for £9.80.

10 December 2020 – The panel noted that the EAS indicates that Miss Thompson claimed £5.00 for parking. The comment section on the EAS stated *“£5 receipt was 9/12 in the evening”*. The panel noted that the bank statement showed that the transaction for the £5 parking charge was made on 9 December 2020. The panel had regard to Miss Thompson’s diary for this date which showed one entry between 9am and 3pm which read *“Virtual Mandatory training”*. The panel noted that there was no evidence before it which showed that Miss Thompson had a reason to travel and incur any parking fees.

21 December 2020 – The panel noted that the EAS indicates that Miss Thompson claimed 48 miles. The comment section on the EAS stated “No evidence of leaving house”. The panel had regard to Miss Thompson’s diary for this date which showed three entries which read “Review ooh, PEG training with Wendy; WEBEX virtual training [and] pump training”. The panel had regard to Witness 2’s written statement which stated:

“The ‘review out of hours’ listed on this date in [WITNESS 2]/02 could have been done by Miss Thompson but no details of which patient. Further, PEG training was done virtually for the patient, and there are no notes for the patient for whom ‘pump training’ is listed”

22 December 2020 – The panel noted that the EAS indicates that Miss Thompson claimed 52 miles. The comment section on the EAS stated “No evidence of leaving”. The panel had regard to Miss Thompson’s diary for this date which showed two entries which stated “Rachel training for pt – details” and “NJ training; virtual training via Webex link”. The panel also had regard to Witness 2’s written statement which stated:

“Where ‘[Person B] training’ is listed in [WITNESS 2]/02, this means that Miss Thompson would have been doing training for one of nurse [Person B] patients. NJ Training refers to naso-jejunal tube training. There is only evidence of Miss Thompson doing [Person B]’s patient’s training on 31 December, not this date.”

Based on all of the evidence before it, the panel was satisfied that it has had regard to sufficient evidence which proves that it is more likely than not that Miss Thompson made claims for which she had not incurred on the following dates in 2020: 27 July, 30 July, 14 August, 18 August, 24 August, 26 August, 28 August, 1 September, 3 September, 11 September, 22 September, 29 October, 12 November, 23 November, 1 December, 3 December, 10 December, 21 December and 22 December. The only date not proved was for 19 November 2020. The panel therefore finds this charge proved.

Charge 2

2. One or more of your actions at Charge 1 were dishonest in that you knew you had not incurred the same.

This charge is found proved.

In reaching this decision, the panel took into account the evidence before it.

In its consideration of this charge, the panel applied the test for dishonesty in *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67 which is as follows:

“[74]. When dishonesty is in question the fact-finding tribunal must first ascertain (subjectively) the actual state of the individual’s knowledge or belief as to the facts. The reasonableness or otherwise of his belief is a matter of evidence (often in practice determinative) going to whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held. When once his actual state of mind as to knowledge or belief as to the facts is established, the question whether his conduct was honest or dishonest is to be determined by the fact-finder by applying the (objective) standards of ordinary decent people. There is no requirement that the defendant must appreciate what he has done is, by those standards, dishonest.”

The panel noted that it has found that Miss Thompson has made false claims for expenses she had not incurred for business purposes. However, it went onto consider whether Miss Thompson knowingly carried out the actions as set out in charge 1 and what her belief at the time was.

The panel took into account submissions from Miss Thompson via her former representatives dated 13 December 2021 which stated:

“The Registrant denies this regulatory concern in that she was not dishonest when she made her expenses claims. The Registrant instructs that as she no longer has

access to her work computer and emails, she is unable to ascertain whether the claims are correct, but she denies that she was ever dishonest or knowingly made false expenses claims. The Registrant does accept that she may have made errors with her expenses due to extenuating circumstances, and she apologises if this was the case.

7. The Registrant instructs she used to put in her expenses in at the end of every month. However, in December 2020, the Registrant instructs that she was [PRIVATE], late in submitting her expenses that month, and had to recall some information from memory which she accepts with hindsight may have been incorrect.”

The panel considered whether there were any alternative explanations as to why Miss Thompson had claimed the expenses when she should not have. The panel had regard to the CHASE expense policy which clearly outlines the process which should be followed for any expense claims made and it noted that Miss Thompson would have been aware of this policy document.

[PRIVATE] Therefore the panel could not conclude that this was an alternative explanation for her actions as set out in charge 1.

The panel noted that on almost all of the dates that Miss Thompson has claimed expenses for mileage and parking, there had been no evidence to show that she had any reason to travel for the purposes of fulfilling her nursing duties with CHASE or Abbott. The panel concluded that there is no alternative explanation as to why Miss Thompson claimed those expenses for the dates as set out in charge one and there is no evidence before the panel to suggest why Miss Thompson would have been led to believe that she was entitled to those fees. The panel concluded that, by the standards of ordinary decent people, Miss Thompson’s actions as set out in charge 1 would be considered dishonest. The panel therefore finds this charge proved.

Charge 3a

3. On 13 January 2021 used your NHS email address to send an email to NHS Cannock CHASE CCG, incorrectly stating:
 - a. I am writing to inform you that [Person A] who works with me in the community as my HCA, comes under the classification as Frontline Healthcare Worker;
 - b. Would you be so kind as to add [them] to your urgent COVID 19 vaccine register. [Person A] is in daily contact with patients, therefore in a most vulnerable position

This charge is found proved.

In reaching this decision, the panel took into account the documentary evidence which included the screen capture of the emails sent from Miss Thompson's email address.

The panel had regard to the email dated 13 January 2021 from Miss Thompson's email address which stated:

*"I am writing to inform you that [Person A] who works with me in the community as my HCA, comes under the classification as Frontline Healthcare Worker;
Would you be so kind as to add [them] to your urgent COVID 19 vaccine register.
[Person A] is in daily contact with patients, therefore in a most vulnerable position"*

The panel was satisfied that the words as set out in limbs (a) and (b) of this charge are evidenced within the screen capture of the email sent. It went on to consider whether the email address used to send the email was in fact Miss Thomson's NHS email address as alleged in the charge.

The panel noted that the signature of this email included both Miss Thompson's Abbott email address as well as her NHS email address.

The panel took into account submissions from Miss Thompson via her former representatives dated 13 December 2021 which stated:

“The Registrant accepts this regulatory concern in part. The Registrant accepts that on 13 January 2021 she emailed her partner’s GP surgery from her Abbott NHS email address requesting a Covid-19 vaccination for her partner, stating that he worked with her as a Health Care Assistant (HCA) and as such was a frontline healthcare worker and in daily direct contact with patients, and therefore in a vulnerable position. The Registrant instructs that her partner was not a HCA, and not formally working with her. However, the Registrant instructs that because of her various health conditions, her husband did drive her on two occasions to visit patients; possibly three or four patients. The Registrant instructs that because of the pandemic, most patient contact was by telephone, and she saw very few patients in person and the contact was very limited.”

The panel also had regard to the written statement of Witness 2 which stated:

*“I have also been asked to provide unredacted copies of the original emails sent by the Wendy Thompson requesting a Covid Vaccination for her partner which I now exhibit, marked as **LM/06**,
There are two emails sent by Wendy Thompson using her NHS email, requesting a COVID vaccination for her partner, who I can confirm doesn’t work for Abbott or CHASE.”*

The panel also took into account the email from Miss Thompson dated 9 April 2021 which stated:

“The fact that I tried to gain a COVID vaccine for my partner whilst driving me to patient houses in order for me to continue my nursing work was purely to protect him and my patients and nit for my personal gain as CHASE suggest in their biased

view. At no point did I have any work related conversations in front on my partner or allow him to see the properties I entered as my car was parked a good distance away from patient hikes. Prior to this I added him into my company car insurance via CHASE as I am fully aware that this is required in order for driving by my partner to be legal.

I apologised for using my NHS email for the request and my partner was technically assisting me, however I realise that I was wrong in stating he was a HCA but I duly declare this was in order for me to safely carry out my role and not let patients and the company down by [PRIVATE].”[sic]

Based on the evidence before it, the panel was satisfied that there is sufficient evidence to conclude that Miss Thompson used her NHS email address to send an email to NHS Cannock CHASE CCG incorrectly stating the words as set out in sub-charges 3a and 3b. The panel therefore finds these charges proved.

Charge 4

4. Your actions at Charge 3 were dishonest in that you:
 - a. Knew some or all of the information contained within the email referred to at Charge 3 was incorrect;
 - b. Intended to create the misleading impression that Person A was a Frontline Healthcare Worker and/or in daily direct contact with patients;
 - c. Used your position as a registered nurse with the intention of securing a COVID 19 vaccine for Person A.

This charge is found proved.

In reaching this decision, the panel took into account the evidence before it. In considering this charge, it applied the test as set out in the case of *Ivey v Genting Casinos* as referred to above.

The panel concluded that Miss Thompson knew that some or all of the information contained within the email that she sent detailed at charge 3 was incorrect and that she intended to create the misleading impression that Person A was a Frontline Healthcare worker and in daily direct contact with patients. The panel noted that the email clearly sets out that Miss Thompson is seeking for Person A to be added to the Urgent Covid-19 vaccine register. The panel concluded that the evidence before it is sufficient to conclude that Miss Thompson used her position as a registered nurse with the intention of securing a COVID 19 vaccine for Person A.

The panel considered the state of Miss Thompson's actual knowledge and belief at the time of her actions. The panel noted that she would have known that CHASE and Abbott does not employ healthcare assistants and that Miss Thompson would have been fully aware that the person who she was seeking a Covid-19 vaccination for was not a healthcare assistant who worked for CHASE/Abbott, was not entitled to an NHS vaccine at the relevant time and was not a front-line healthcare worker or in daily direct contact with patients.

The panel noted that Miss Thompson stated in an email dated 9 April 2021:

"I apologised for using my NHS email for the request and my partner was technically assisting me, however I realise that I was wrong in stating he was a HCA but I duly declare this was in order for me to safely carry out my role and not let patients and the company down by [PRIVATE]"

The panel noted that, although Miss Thompson appears to be providing some reasons in an attempt to justify her actions, she does not put forward any alternative explanations as to what her actual knowledge or belief was at the time. The panel therefore concluded that by the standards of ordinary decent people, Miss Thompson's actions as set out in charge 3 were dishonest. The panel therefore finds this charge proved.

Charge 5

5. Some or all of your actions at Charge 3 lacked integrity.

This charge is found proved.

In reaching this decision, the panel took into account the evidence before it.

The panel considered the circumstances which were present at the time of Miss Thompson's actions at charge 3. The panel noted that this was during the height of the Covid-19 pandemic and that at the time vaccinations were being administered based on priority. The panel has found that Miss Thompson acted dishonestly in an attempt to obtain a vaccine for Person A who was not considered vulnerable in that he was not a frontline NHS worker at the time. The panel has found that Miss Thompson led the recipient of the email to believe that Person A was a frontline NHS worker and requested that he be placed on the 'urgent' vaccination register.

The panel took into account that frontline nurses were prioritised in the order of Covid-19 vaccinations being administered for the sole purpose of being protected whilst they provided care to the public. The panel considered that Miss Thompson abused the resources she had available to her by way of her nursing position by taking advantage of this service to obtain a vaccine for Person A. The panel therefore agreed with both witnesses that Miss Thompson's actions as set out in charge 3 did lack integrity. The panel therefore finds 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 Miss Thompson'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 Thompson's fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

Mr Brahim provided written submissions to the panel in which he stated:

"1. Misconduct is a matter for the Panel's professional judgment. The leading case is Roylance v GMC [2000] 1 AC 311 which says:

"misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rules and standards ordinarily required to be followed by a medical practitioner in the particular circumstances."

2. In Calhaem v GMC [2007] EWHC 2006 (Admin) Mr Justice Jackson commented on the definition of misconduct and he stated:

'it connotes a serious breach which indicates that the doctor's fitness to practise is impaired.'

3. *Mr Justice Collins in Nandi v GMC [2004] EWHC 2317 (Admin) stated that:*

“the adjective ‘serious’ must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioners.”

4. *The NMC submit that the proven charges amount to misconduct. The following submissions are collectively made in respect of the Registrant’s conduct:*

a. To have used company money on at least 22 expenses that were not justified is an act which falls short of what would be proper in the circumstances.

b. To have exploited a work email (the panel may consider two occasions) in order to dishonestly secure vaccination for another connotes a serious breach.

c. To have disregarded the potential for damage and scrutiny that the medical profession would face upon the public learning of such actions, shows that the Registrant lacked integrity. This would be conduct which would be regarded as deplorable by fellow practitioners.

5. *The NMC say that the following parts of The Code have been breached, but of course the Panel is able to consider any other parts as it sees fit (note that it is the 2018 version of the Code that applies in this case):*

4 Act in the best interests of people at all times;

7 Communicate early;

8 Work cooperatively;

10 Keep clear and accurate records relevant to your practice;

11 Be accountable for your decisions to delegate tasks and duties to other people;

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;

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

23 Cooperate with all investigations and audits;

25 Provide leadership to make sure people's wellbeing is protected and to improve their experiences of the health and care system.

6. Overall, the NMC further submits that the Registrant's actions as proven fall far short of what would be expected of a Registered Nurse. The public would expect that the profession will have staff that uphold a professional reputation. The Panel may find that most in breach are that of "20" and "21" above. The Registrant has put into question as to whether nurses can be trusted to handle expenses intended for business use and also not to take advantage of systems in place for advanced vaccination. Such behaviour will also affect the public's trust in the medical profession.

7. The NMC therefore invite the Panel to find misconduct."

Submissions on impairment

Mr Brahim provided written submissions to the panel in which he stated:

"9. Current impairment is not defined in the Nursing and Midwifery Order of the Rules. However, the NMC as of 27th March 2023, states the following on how to decide on impairment (reference DMA-1):

"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".

10. *The Panel may be assisted by the questions posed by Dame Janet Smith in her Fifth Shipman Report, as endorsed by Mrs Justice Cox in the leading case of Council for Healthcare Regulatory Excellence v (1) NMC (2) Grant [2011] EWHC 927 (Admin):*

“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:

i) Has in the past, and/or is liable in the future to act as so as to put a resident or residents at unwarranted risk of harm;

(ii) Has in the past, and/or is she liable in the future to bring the profession into disrepute;

(iii) Has in the past, and/or is she liable in the future to breach one of the fundamental tenets of the profession;

(iv) Has in the past, and/or is she liable in the future to act dishonestly.”

11. *As further stated at paragraph 74 of Grant, the Panel should:*

“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.

12. *The NMC say that the Registrant is impaired and that all 4 limbs of Grant are engaged in this case, however, the Panel are at liberty to consider any ground.*

13. *The first limb is engaged as a result of the Registrant putting patients in unwarranted risks of harm. The Panel have accepted the evidence in respect of the charges proven and it follows that individuals were put at risk of harm where (but not limited to):*

a. It is accepted that there has been no harm to patients. However, the Panel may consider that at a peak time of Covid – vaccination for the vulnerable was most essential. In this instance witnesses said to the Panel that by her securing vaccination for her partner, she took away from others that may have been in need.

14. The second limb is engaged as a result of the Registrant's behaviour, as found proven, plainly brings the profession into disrepute:

a. It is clear that what took place, as per the proven charges, will bring the profession into disrepute. There would be great concern that the Registrant, a registered nurse, sought to exploit the expenses system for non-business use and to also use her work email for personal vaccination requests (for her partner). She, as a qualified nurse, was untruthful to a duty GP and this at the very least brings the profession into disrepute.

15. The third limb is engaged, where the Registrant has plainly breached fundamental tenets of the profession in numerous areas of the Code of Conduct as referred to above, but in particular:

a. Uphold the reputation of your profession at all times (20.1 and 20.2).

b. Uphold your position as a registered nurse, midwife or nursing associate (21.3)

c. Cooperate with all investigations and audits (23.1)

16. The fourth limb is engaged as a result of the Registrant having been found proven of acting dishonestly. This causes the following concerns (but not limited to):

a. The Panel may be persuaded that there is no other impression other than deliberate conduct where expenses are dishonestly used on at least 22 occasions. It would be clear to any individual that a business card or allowance is for business use, and should not, for example, be used on your day off. The number of occasions show that the Registrant is liable to act dishonesty in the future.

b. Although there is one charge, the Panel saw that the Registrant sought to secure vaccination from the duty GP on two occasions. The NMC submit that provides the Panel with contextual background the Registrant has deliberately amended her language as she attempted to escalate her requests to different GPs. This was confirmed by witness evidence where different recipients were addressed and upon receiving an (arguably unfavourable) response from one, she moved to persuade another for the same request.

17. As further stated at paragraph 74 of Grant, the Panel should:

“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.”

18. The NMC submit that there is a serious departure from the standards expected of a nurse and that the behaviour is incompatible with ongoing registration. The Panel should consider impairment on the following grounds:

19. Public protection

a. A real risk of harm may be apparent in respect of taking away vaccinations from those that may be truly vulnerable. There is also financial harm in so far as the company losing money that was not intended for business use. This case provides a strong demonstration of there being a risk of repetition where the Registrant acted in this was on at least 22 occasions.

20. Otherwise in the public interest

a. The NMC submit that the greater concern in this case is the lasting impression that the Registrant’s conduct will have on the nursing profession. There are three areas of concern here, which escalate in seriousness. The first is the

number of incidents that the Registrant dishonestly used her expenses, the second is the dishonest behaviour of using her position to secure her partner vaccination, and most fundamental is the third – the lack of integrity the Registrant demonstrated. These charges relate to more serious category of misconduct, namely dishonesty and a member of public learning of these incidents would find it difficult to reinstate trust in the medical profession where dishonesty is often an attitudinal problem. The repetition of these incidents has taken the conduct beyond a “one-off” or laps in concentration – rather into deliberate territory. The NMC will argue that the public would be greatly (and adversely) affected once they learn of these proven incidents. There will be less trust in the medication profession. As a result of the Registrant’s abuse of position, the NMC submit that the honesty and integrity of the medical profession has been challenged and evidently been put into disrepute.

21. As such the NMC invite the Panel to find that the Registrant is currently impaired.”

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and *General Medical Council v Meadow* [2007] QB 462 (Admin).

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: Professional standards of practice and behaviour for nurses and midwives (2018)' (the Code).

The panel was of the view that Miss Thompson’s actions did fall significantly short of the standards expected of a registered nurse, and that Miss Thompson’s 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.

10.3 *complete all records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements [in relation to workplace records]*

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, [...]*

20.9 *maintain the level of health you need to carry out your professional role [in relation to the reasons provided by Miss Thompson as to why she required Person A to drive her to her nursing visits, namely her claims that she had a leg injury]*

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

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*

23 Cooperate with all investigations and audits

This includes investigations or audits either against you or relating to others, whether individuals or organisations. [...]

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. It went on to consider whether Miss Thompson's actions in each of the charges found proved amounted to misconduct.

In respect of charges 1 and 2, the panel considered that Miss Thompson had dishonestly claimed money for expenses she had not incurred for work purposes. The panel found that her actions as set out in these charges demonstrated a serious departure from what would be expected of a registered nurse and a serious falling short of what would be

proper in the circumstances. The panel concluded that Miss Thompson's actions were in breach of the Code and fundamental tenets of the profession. It determined that her actions were sufficiently serious and amounted to a finding of misconduct.

In relation to charges 3, 4 and 5, the panel considered that Miss Thompson had taken advantage of her position as a nurse and exploited the resources she had available to her as a registered nurse, namely her Abbott NHS email address, for her own personal gain. The panel concluded that Miss Thompson was knowingly dishonest in attempting to secure a Covid-19 vaccination for her partner, Person A, so that they could allegedly drive her to her nursing visits. The panel took into account that it was not one attempt to secure the Covid-19 vaccination but two attempts by Miss Thompson. The panel considered that nurses are expected to act with integrity and at all times expected to be honest in order to uphold the trust placed in them and Miss Thompson's actions demonstrated a serious departure from this. The panel found that Miss Thompson'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, Miss Thompson'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 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 determined that limbs (a) to (d) of the “test” are engaged in this case both in the past and in the future. Whilst the panel noted that no actual physical or emotional harm was caused to patients as a result of Miss Thompson’s misconduct, the consequences of her actions had the potential to put members of the public at a risk of harm. The panel has found that as a result of attempting to secure a vaccination for Person A, Miss Thompson would have potentially deprived a genuine frontline healthcare worker of receiving the Covid-19 vaccination, leaving them unprotected at a time when the pandemic was at its peak. The panel concluded that Miss Thompson’s misconduct had breached fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

The panel noted that Miss Thompson has expressed some remorse for having used her work email address to secure a Covid-19 vaccination for Person A and has apologised.

The panel noted that Miss Thompson appears to justify her actions and stated:

“I had used my NHS email account to send this securely and felt I would let my colleague Nurses down and the Team if [PRIVATE]. I had not harmed any patient in doing so or given out any confidential information related to patients or intent to harm anyone in the process. This was purely to help speed up the process of my partner [Person A] gaining his COVID injection as he was assisting me with driving my work vehicle which I had ensured he was insured on prior to using the car via CHASE.”

However, regarding insight, the panel considered that Miss Thompson has not demonstrated that she has an understanding on why her actions were wrong and how this impacted negatively on the reputation of the nursing profession. The panel considered that Miss Thompson has not demonstrated an understanding of how and why it was wrong for her to try and secure a Covid-19 vaccination for Person A. He was not a frontline NHS worker and at this time, a very limited number of vaccines were being administered, and frontline healthcare workers were being prioritised so that they could provide care to the public. The panel considered that she has not acknowledged the potential for harm associated with her actions nor has she addressed the fact that in attempting to secure a vaccine for Person A she could have potentially deprived another healthcare worker of receiving one.

Further, the panel considered whether Miss Thompson has demonstrated any insight in respect of the expenses she incorrectly claimed. The panel noted that in her reflection she stated:

“I was also said to have claimed expenses for mileage that I had not used, [PRIVATE] [...], I put my end of month expenses in late and must have made several errors.”

Miss Thompson also stated in an email to the NMC dated 5 December 2023:

“I may have made a few errors which I took responsibility for but I certainly did not make false claims and can only presume that the editable excel spreadsheets have been edited to reflect this so that I was forced out of the company.”

In a further email on the same date she stated:

“Therefore in my opinion and knowledge [...], i know that these spreadsheets had been edited to basically oust me out of my job.”

A further email from Miss Thompson dated 4 January 2024, she stated:

“Re my case, I would like you to add something that I feel may put the panel into my circumstance of situation. I have been watching the 4 part documentary series which highly relates to how my ex employer Chase search & selection ‘ have treated me in relation to expense charges . The following series regarding sub postmasters wrongly accused of fraud is identical to what my ex employer have done to me- re changing spreadsheets as part of the bullying tactics to dismiss me, due to me standing up to myself.”[sic]

The panel noted that Miss Thompson appears to accept having made errors in the expenses claimed but does not appear to accept that she did so dishonestly. The panel considered that Miss Thompson has not demonstrated that she understood how claiming fees not incurred for work purposes could impact the organisation and the NHS service users they supported. Nor has she demonstrated an understanding of how her actions impacted on the reputation of the nursing profession. In addition, the panel noted that, having accepted she could have made some errors in the expenses claimed by her, Miss Thompson still alleged that her senior colleagues falsified the records to indicate she had dishonestly claimed those expenses. The panel noted that Miss Thompson was invited by CHASE/Abbott to an investigatory meeting to discuss these expenses but she declined to attend on multiple occasions. The panel concluded that Miss Thompson has demonstrated a very low level of insight into her failures.

The panel noted that in cases which involve dishonesty it can be more difficult to demonstrate that the misconduct has been addressed. However, the panel was satisfied that in this case, the expenses misconduct is potentially capable of being addressed unlike that relating to the vaccination claim. Therefore, the panel carefully considered the evidence before it in determining whether or not Miss Thompson has taken steps to strengthen her practice. The panel had regard to the certificate of completion for the ‘Build an Expense Tracker’ training undertaken by Miss Thompson. However, there was no reflective evidence to support what she had gained from this training and how she would apply it to her practice going forward. The panel did not have any further evidence before it to determine whether Miss Thompson has addressed the areas of concern, so as to

avoid a repetition of the misconduct. As such, the panel determined that there is a risk of repetition.

For all of the reasons above, the panel decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC; to protect, promote and maintain the health, safety, and well-being of the public and patients, and to uphold and protect the wider public interest. This includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that a finding of impairment on public interest grounds is required because public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Miss Thompson's fitness to practise impaired on the grounds of public interest. The panel considered that the public interest in upholding the confidence in the nursing profession would be seriously undermined if this dishonest nurse was not considered impaired.

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

In his written submissions Mr Brahimy submitted that a striking-off order is the appropriate and proportionate sanction. He submitted that any other order would not adequately address the concerns, or sufficiently reflect the seriousness of the charges found proved.

As this case involves dishonesty and a misuse of power for personal gain it is at the higher end of the spectrum of gravity. He submitted that the repetition of the premeditated dishonesty may point towards a deep-seated attitudinal problem.

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

Decision and reasons on sanction

Having found Miss Thompson'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 a position of trust
- Minimal insight into failings
- A pattern of misconduct over a period of time

- Misconduct occurred at a particularly vulnerable time, during the pandemic, which she took advantage of
- Two unrelated findings of dishonesty

The panel also took into account the following mitigating features:

- Partial admissions
- Completion of a relevant course
- Positive testimonials
- [PRIVATE]

The panel took into account the NMC's guidance SAN-2, in determining the seriousness of the dishonesty. It considered that Miss Thompson's misconduct provided her with personal gain through her misuse of power and breach of trust. The panel also noted that the dishonesty was premeditated and systematic. It also noted that in relation to Charges 3 to 5 involving the email vaccination requests, Miss Thompson had apologised and demonstrated some remorse. The panel further noted that in relation to Charges 1 and 2, Miss Thompson had attempted to implicate and blame other colleagues by claiming that they had falsified the claimed expenses record.

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 protection issues identified, an order that does not restrict Miss Thompson'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 Thompson'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 Thompson'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. Furthermore, the panel had no evidence that Miss Thompson was working or seeking work as a registered nurse. The misconduct identified in this case was not something that can be addressed through retraining as there was evidence of deep-seated personality and attitudinal problems. Furthermore, the panel concluded that the placing of conditions on Miss Thompson's registration would not adequately address the seriousness of this case and would not protect the public.

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

The panel was of the view that the factors outlined above are not apparent. The conduct, as highlighted by the facts found proved, was not a single instance of misconduct and was repeated dishonesty. The panel considered that there is a deep-seated personality or attitudinal problem. It also noted that there was a very low level of insight and that there was a risk of the behaviour being repeated. The panel considered that Miss Thompson's 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 Miss Thompson's misconduct is fundamentally incompatible with her remaining on the register.

For these reasons, 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?*

Miss Thompson's actions were significant departures from the standards expected of a registered nurse, in that there were two instances of significant dishonesty whilst in a position of trust. The panel considered that the misconduct is fundamentally incompatible with her remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Miss Thompson'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 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 Thompson'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.

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 Thompson's own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Submissions on interim order

Mr Brahimi submitted that the appropriate interim order is one of suspension. He submitted that an interim suspension order is required on the same grounds as he submitted during the misconduct and impairment stage of this hearing. He invited the panel to impose the interim suspension order for 18 months to allow time for an appeal to be lodged by Miss Thompson.

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

Decision and reasons on interim order

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

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

The panel therefore imposed an interim suspension order. It determined that such an order was necessary to protect the public and is otherwise in the public interest. The panel imposed the interim suspension order for a period of 18 months due to allow time for the appeal period.

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

This will be confirmed to Miss Thompson in writing.

That concludes this determination.