

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

**Substantive Meeting
Friday, 06 December 2024**

Virtual Meeting

Name of Registrant: Tracey Nicholls

NMC PIN 90Y0083W

Part(s) of the register: Nurses part of the register Sub part 2
RN4: Mental health nurse, level 2 (28 May 1994)

Relevant Location: Newport

Type of case: Conviction

Panel members: Richard Youds (Chair, Lay member)
Karen Shubert (Registrant member)
Stacey Patel (Lay member)

Legal Assessor: Ashraf Khan

Hearings Coordinator: Audrey Chikosha

Facts proved: Charge 1

Fitness to practise: Impaired

Sanction: **Striking-off order**

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

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 Ms Nicholls' registered email address by secure email on 30 October 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 heard virtually.

In the light of all of the information available, the panel was satisfied that Ms Nicholls 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).

Details of charge

That you, a registered nurse:

- 1. Were convicted on 26 May 2023 at Newport (South Wales) Crown Court of the following offence:*

“Tracy Nicholls on the 24th day of August 2021 whilst acting in the capacity as a care worker wilfully neglected a patient in her care, namely Resident A.”

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

Background

Ms Nicholls was referred to the NMC on 7 September 2021 by the registered manager of Anwen Care Ltd, Residential Nursing Home ('the Home') where Ms Nicholls was employed as a registered nurse.

It is alleged that on 24 August 2021, Resident A suffered a witnessed fall in the lounge of the Home resulting in her hitting her head and lying prone on the floor. Ms Nicholls allegedly failed to adequately assess her following the fall, failed to listen to the resident's concerns about being in pain following the fall, and thus, failed to escalate her care when it was necessary to do so.

Ms Nicholls also allegedly failed to ensure that Resident A was safely moved following the fall as she lifted her manually rather than with a hoist and it is alleged that she also failed to fully document any care she provided (and described the resident's presentation as "histrionic" in the daily care record).

It is alleged that Resident A continued to complain of pain until she was admitted to hospital on 26 August 2021 where a fractured hip was identified.

Ms Nicholls was suspended from her role on 26 August 2021.

Ms Nicholls was convicted for the offence of Care worker ill-treat / wilful neglect of an individual on 26 May 2023 and sentenced on 11 July 2023 at the Newport (South Wales) Crown Court. It is noted that the Judge in his sentencing remarks acknowledged;

"there was no deliberation in what you did, that the harm which you caused was the delay in [Resident A] receiving the treatment which she should have.... The offending is too serious to be dealt with anything other than a custodial sentence."

Decision and reasons on facts

The charge concerns Ms Nicholls's conviction and, having been provided with a copy of the certificate of conviction from Newport (South Wales) Crown Court dated 11 July 2023, the panel finds that the facts are found proved in accordance with Rule 31 (2) and (3).

These state:

'31.— (2) *Where a registrant has been convicted of a criminal offence—*

- (a) *a copy of the certificate of conviction, certified by a competent officer of a Court in the United Kingdom (or, in Scotland, an extract conviction) shall be conclusive proof of the conviction; and*
 - (b) *the findings of fact upon which the conviction is based shall be admissible as proof of those facts.*
- (3) *The only evidence which may be adduced by the registrant in rebuttal of a conviction certified or extracted in accordance with paragraph (2)(a) is evidence for the purpose of proving that she is not the person referred to in the certificate or extract.'*

Fitness to practise

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, Ms Nicholls' fitness to practise is currently impaired by reason of Ms Nicholls' conviction. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

Representations on impairment

The NMC requires 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 cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

The panel bore in mind the submissions of the NMC which reads as follows:

'It is the submission of the NMC that (a) to (c) can be answered in the affirmative in this case. Dealing with each one in turn:

Limb (a)

By wilfully neglecting a patient in her care, Ms Nicholls' actions placed Resident

A at unwarranted risk of harm – Resident A was in pain for over 36 hours until she was admitted to hospital where a fractured hip was identified and this was despite Resident A's fall having been witnessed and despite Resident A's cries of pain. This conduct is the very antithesis of treating people with kindness and respect that nurses are expected to show in their profession. Patients will therefore be put at unwarranted risk of harm if her conduct is not addressed. As such, there is a real public protection risk present here.

Limb (b)

Ms Nicholls' conduct has brought the profession into disrepute – the conviction in this case is serious and aggravated because her neglect involved a vulnerable patient who relied on Ms Nicholls to prioritise her care and preserve her safety. Protecting people from harm, abuse and neglect goes to the heart of what nurses do. A failure to do so brings the nursing profession into disrepute and undoubtedly damages the reputation of the nursing profession. Nurses are also expected to uphold the laws of the country in which they practise. The seriousness of the conviction and the suspended custodial sentence is such that it calls into question the safety of any patient under Ms Nicholls' care. This therefore has a negative impact on the reputation of the profession and, accordingly, has brought the profession into disrepute. There is a need to take action now on a public interest ground because the public may not feel able to trust nurses and as a result the public might take risks with their own health and wellbeing so as to avoid receiving treatment or care from nurses.

Limb (c)

At all relevant times, Ms Nicholls was subject to the provisions of the Nursing and Midwifery Council's Code of Conduct ("the Code"). The Code sets out the professional standards that nurses must uphold. These are the standards that patients and members of the public expect from health professionals. On the basis of the charges alleged, the NMC consider the following provisions of the following parts of the Code were breached in this case:

1 Treat people as individuals and uphold their dignity

1.1. treat people with kindness, respect and compassion

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

1.5. *respect and uphold people's human rights*

2 Listen to people and respond to their preferences and concerns

2.6 *recognise when people are anxious or in distress and respond compassionately and politely*

3 Make sure that people's physical, social and psychological needs are addressed and responded to

3.1 *pay special attention to promoting wellbeing, preventing ill health and meeting the changing health and care needs of people during all life stages*

16 Act without delay if you believe that there is a risk to patient safety or public protection

16.4 *acknowledge and act on all concerns raised to you, investigating, escalating or dealing with those concerns where it is appropriate for you to do so*

20 Uphold the reputation of your profession at all times

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

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

20.3 *be aware at all times of how your behaviour can affect and influence the behaviour of other people*

20.4 *keep to the laws of the country in which you are practising*

20.5 *treat people in a way that does not take advantage of their vulnerability or cause them upset or distress)*

24. *The provisions of the Code constitute fundamental tenets of the profession and Ms Nicholls' actions have clearly breached these in so far as they relate to prioritising people, preserving safety and promoting professionalism and trust.*

25. *With regard to future risk it may assist to consider the approach of Silber J in the case of R (on application of Cohen) v General Medical Council [2008] EWHC 581*

(Admin) by asking the questions whether the concern is easily remediable, whether it has in fact been remedied and whether it is highly unlikely to be repeated.

26. The NMC's guidance titled 'Serious concerns which are more difficult to put right' and 'Serious concerns which could result in harm if not put right' (FTP-3a and 3b) provides that some concerns are so serious that it may be less easy for the registered professional to put right the conduct or aspect of their attitude which led to the incident(s) happening. One criterion that causes a concern to qualify as such is '...being directly responsible for exposing people receiving care to harm or neglect.' The NMC considers that this case falls within this category.

27. It also appears that there are attitudinal concerns here. It is often said that conduct of an attitudinal nature is difficult to remediate. The NMC guidance entitled: Can the concern be addressed? (Reference: FTP-14a) is likely to be of assistance:

'...Examples of conduct which may not be possible to address, and where steps such as training courses or supervision at work are unlikely to address the concerns include:

- criminal convictions for specified offences or convictions that led to custodial sentences*
- incidents of violence towards, or neglect or abuse of people receiving care, children or vulnerable adults.'*

28. We consider Ms Nicholls has displayed some insight. We take this view because in her Agreed Removal form she recognises that she failed to source Resident A the necessary help required and appreciates that a call to emergency services would have helped prevent the prolonged harm and pain that Resident A suffered. Ms Nicholls also demonstrates remorse and sorrow for any distress that Resident A experienced.

29. We consider that Ms Nicholls has not undertaken relevant training in respect of the issues of concern. In any event, in a case such as this one where Ms Nicholls' behaviour could suggest underlying problems with her attitude, it is less

likely that she will be able to address her conduct by taking steps such as completing training courses or supervised practice to remedy her behaviour and address the concerns.

30. We also note that Ms Nicholls has stopped her registration fees which she says is due to financial issues and that she has lost her confidence and ability to keep up with a busy demanding role and the reason she wanted to be removed from the Register (although the Agreed Removal application was not approved) is that she [PRIVATE].

31. There is a significant risk of harm to the public were Ms Nicholls be allowed to practice with out restriction. Therefore, a finding of impairment is required for the protection of the public.

Public interest

32. In Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin) at paragraph 74 Cox J commented that:

“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.”

33. Consideration of the public interest therefore requires the Fitness to Practise Committee to decide whether a finding of impairment is needed to uphold proper professional standards and conduct and/ or to maintain public confidence in the profession.

34. 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. Protecting people from harm, abuse and neglect goes to the heart of what nurses

do. Nurses must act with kindness and to uphold the safety of those who rely on them at all times. If not, such behaviour has the potential to seriously undermine the public's trust and confidence in the professions we regulate. It is submitted that a member of the public apprised of the facts, would be shocked to hear that a registered nurse was entitled to practice without restriction. The concerns in this case are of a serious nature that 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.

35. Accordingly, this is a matter in which a finding of impairment is required on public protection grounds and also public interest grounds.'

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council (No 2)* [2000] 1 A.C. 311, and *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

Decision and reasons on impairment

The panel next went on to decide if as a result of the conviction, Ms Nicholls'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. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. 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/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) ...'

The panel determined that the first three limbs of Grant are engaged. It noted that Ms Nicholls put a resident at unwarranted risk of harm and in the absence of any evidence of strengthened practice or remediation, remains liable to put patients at risk in the future. The panel considered that the conviction directly relates to Ms Nicholls' clinical practice and the neglect of a resident and as such brings the profession into disrepute. It was also of the view that Ms Nicholls conduct which led to the conviction was in breach of fundamental tenets of the nursing profession. The panel accepted the submissions of the NMC that Ms Nicholls breached the following sections of the Code:

1 Treat people as individuals and uphold their dignity

1.1. treat people with kindness, respect and compassion

1.2. make sure you deliver the fundamentals of care effectively

1.5. respect and uphold people's human rights

2 Listen to people and respond to their preferences and concerns

2.6 recognise when people are anxious or in distress and respond compassionately and politely

3 Make sure that people's physical, social and psychological needs are addressed and responded to

3.1 pay special attention to promoting wellbeing, preventing ill health and meeting the changing health and care needs of people during all life stages

16 Act without delay if you believe that there is a risk to patient safety or public protection

16.4 acknowledge and act on all concerns raised to you, investigating, escalating or dealing with those concerns where it is appropriate for you to do so

20 Uphold the reputation of your profession at all times

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

20.2 act with honesty and integrity at all times, treating people fairly and

without discrimination, bullying or harassment

20.3 be aware at all times of how your behaviour can affect and influence the behaviour of other people

20.4 keep to the laws of the country in which you are practising

20.5 treat people in a way that does not take advantage of their vulnerability or cause them upset or distress)

In light of this, the panel was of the view that confidence in the nursing profession would be seriously undermined if its regulator did not make a finding of impairment.

The panel then considered the test in Cohen. It noted that the conduct leading to the conviction is directly related to Ms Nicholls' clinical practice in particular regarding the recognition and escalation of clinical incidents. However, the panel was of the view that underlying these clinical concerns there are attitudinal issues. As such the panel determined that the concerns in this case would be difficult to address.

The panel considered Ms Nicholls' reflection and determined that it was limited. It noted that Ms Nicholls provided contextual information as well as insight into her health at the time. However, the panel was not satisfied that the reflection provided sufficient insight into her actions and their impact on the resident, their family, fellow colleagues or the nursing profession as a whole. The panel acknowledged Ms Nicholls' apology and noted that she has shown remorse for the incident, but the panel determined that she lacks insight into the key concerns.

The panel also considered whether Ms Nicholls has taken steps to strengthen her practice. It had no evidence before it to indicate that Ms Nicholls has remediated her practice. The panel therefore concluded that the risk of repetition is high in these circumstances.

Taking this into account as well as the risk of harm identified, 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 are to protect, promote and maintain the health safety and well-being of the public and patients, and to uphold/protect the wider public interest, which 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, in this case, a finding of impairment on public interest grounds was required. The panel considered that given the nature of Ms Nicholls' conviction in that it related to neglect of a vulnerable patient together with the level of experience Ms Nicholls has as a nurse, the public interest in this case is high. The panel was of the view that public confidence in the profession and the NMC as its regulator would be seriously undermined if a finding of impairment is not made.

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

Representations on sanction

The panel had sight of the NMC's written submissions on Sanction which read:

*'36. Taking into account the NMC Sanctions Guidance, the NMC consider the following sanction is proportionate: **Striking-Off Order.***

37. The public interest must be at the forefront of any decision on sanction. The public interest includes protection of members of the public, including patients, the maintenance of public confidence in the profession and the declaring and

upholding of proper standards of conduct and behaviour within the profession. The public interest in this case lies with maintaining public confidence in the profession and upholding proper professional standards by declaring that Ms Nicholls' behaviour was unacceptable.

38. Any sanction imposed must do no more than is necessary to meet the public interest and must be balanced against Ms Nicholls' right to practice in her chosen career. To achieve this the panel is invited to consider each sanction in ascending order.

39. In its contemplation the NMC have considered the following aggravating and mitigating factors:

Aggravating factors:

- Abuse of position of trust*
- Vulnerable resident*
- Patient/resident harm*

Mitigating factors:

- Lack of support from a 2nd nurse on duty/short staffed*
- Had recently started working day shifts – was not coping with the stressful pace*
- [PRIVATE]*
- Made admissions, pleaded guilty and showed remorse*

40. With regard to our sanctions guidance, the following aspects have led us to this conclusion:

*41. **Taking no action or a caution order** would not sufficiently address the seriousness of the concerns in this case and would not meet the wider public interest. Neglecting a patient/resident can cause (and did cause) serious harm and also seriously undermines public confidence in the profession.*

*42. **Conditions of practice order:** there are no suitable or workable conditions that would address the concerns here. Such an order would also not mark the*

seriousness of the conduct and would not be sufficient to maintain trust and confidence in the profession. As a result of Ms Nicholls' actions she has a criminal conviction and was sentenced to prison for 12 weeks (suspended for 12 months). The criminal offending was directly linked to her clinical practice and there was clear harm to Resident A. The concern raises fundamental questions about Ms Nicholls' professionalism and as it is such a serious concern it is not likely possible for Ms Nicholls to remedy or put right through conditions.

*43. **Suspension:** there is evidence of attitudinal problems given the nature of the concerns and given that Ms Nicholls' behaviour gravely undermines patients' and the public's trust in nurses a suspension is not sufficient.*

*44. **Striking-off:** according to our guidance (FTP-3a), Ms Nicholls' behaviour demonstrates a serious concern that is more difficult to put right and could result in harm if not put right – 'being directly responsible for exposing people receiving care to harm or neglect' evidences attitudinal issues and even though there is only one reported incident it is a clinical failing that suggests an underlying issue with the nurse's attitude to people in their care.*

45. The Code says that nurses, midwives and nursing associates must 'take all reasonable steps to protect people who are vulnerable or at risk of harm, neglect or abuse'.

46. Protecting people from harm, abuse and neglect goes to the heart of what nurses do. Failure to do so, or intentionally causing a person harm, will always be treated very seriously due to the high risk of harm to those receiving care, if the behaviour is not put right. Such behaviour also has the potential to seriously undermine the public's trust and confidence in the professions we regulate.

47. As these behaviours can have a particularly severe impact on public confidence, a professional's ability to uphold the standards and values set out in the Code, and the safety of those who use services, any nurse, who is found to have behaved in this way will be at risk of being removed from the register.

48. As mentioned above, Ms Nicholls' has a criminal conviction and was sentenced to prison for 12 weeks (suspended for 12 months). The criminal offending was directly linked to her clinical practice and there was clear harm to Resident A. The concern raises fundamental questions about Ms Nicholls' professionalism and although Ms Nicholls has shown some insight and demonstrated remorse for her behaviour, as it is such a serious concern, it is not likely possible for Ms Nicholls to remedy or put right which will most seriously affect their trustworthiness as a nurse. In all the circumstances, the only appropriate sanction here has to be a strike off. Moreover, it is to be noted that in any event, Ms Nicholls has stated that she has no intention of returning to nursing and therefore it should be considered that there would be little prejudice to Ms Nicholls by such an order'

Decision and reasons on sanction

Having found Ms Nicholls'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
- Lack of insight into failings
- Conduct which caused a vulnerable resident harm.

The panel also took into account the following mitigating features:

- Ms Nicholls has made admissions
- Ms Nicholls has shown remorse and provided an apology
- Ms Nicholls provided additional context of the working environment and [PRIVATE]

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest 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, the public protection issues and high public interest identified, an order that does not restrict Ms Nicholls'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 Ms Nicholls'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 Ms Nicholls'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 conviction in this case and the attitudinal concerns. Furthermore, the panel had evidence before it that Ms Nicholls does not wish to return to nursing and as such could not be assured that Ms Nicholls is willing to comply with any conditions imposed. The panel concluded that the placing of conditions on Ms Nicholls's registration would not adequately address the seriousness of this case, would not protect the public nor meet the high 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;*

The panel noted that this was a single incident and there has been no evidence of repetition since. However, the panel was of the view that the seriousness of the failings given Ms Nicholls' level of experience, and the underlying attitudinal issues means there is a significant risk of repetition. Furthermore, the panel had no evidence of insight before it to mitigate the risk of repetition.

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Ms Nicholls' actions is fundamentally incompatible with Ms Nicholls 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?*

Ms Nicholls' 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 particular case demonstrate that Ms Nicholls'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 matters it identified, in particular the effect of Ms Nicholls' actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct herself, the panel has concluded that nothing short of this would be sufficient in this case.

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

This will be confirmed to Ms Nicholls 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 Ms Nicholls' 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 representations made by the NMC that:

'...it is also necessary for the protection of the public and otherwise in the public interest for there to be an interim suspension order of 18 months to cover the appeal period.'

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 for a period of 18 months due to cover the period of appeal.

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

That concludes this determination.