

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

**Substantive Hearing
Monday, 8 July 2024 – Wednesday, 10 July 2024**

Nursing and Midwifery Council
2 Stratford Place, Montfichet Road, London, E20 1EJ

Name of Registrant:	Andrew Maxwell Champion
NMC PIN	9213949E
Part(s) of the register:	Registered Nurse – Adult Nursing RNA - (31 August 1996)
Relevant Location:	Hertfordshire
Type of case:	Misconduct
Panel members:	Mark Gower (Chair, Lay member) Charlotte Cooley (Registrant member) James Carr (Lay member)
Legal Assessor:	John Bassett
Hearings Coordinator:	Monowara Begum (8 July 2024) Nicola Nicolaou (9 and 10 July 2024)
Nursing and Midwifery Council:	Represented by Benjamin D’Alton, Case Presenter
Mr Champion:	Not present and not represented at the hearing
Facts proved by way of admission:	Charges 1, 2, 3, 4, 5, and 6
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 Mr Champion was not in attendance and that the Notice of Hearing letter had been sent to Mr Champion's registered email address by secure email on 23 May 2024.

Mr D'Alton, 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 venue of the hearing and, amongst other things, information about Mr Champion's right to attend, be represented and call evidence, as well as the panel's power to proceed in his absence.

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

Decision and reasons on proceeding in the absence of Mr Champion

The panel next considered whether it should proceed in the absence of Mr Champion. It had regard to Rule 21 and heard the submissions of Mr D'Alton who invited the panel to continue in the absence of Mr Champion. He submitted that Mr Champion had voluntarily absented himself.

Mr D'Alton referred the panel to the documentation from Mr Champion which included an email dated 29 May 2024 stating the following:

‘As per your request I confirm that I will not be attending the hearing... I am relieved to no longer be involved in nursing at any level. Consequently, with due respect to the NMC panel presiding, there is nothing of benefit in my attending the hearing.’

The panel accepted the advice of the legal assessor.

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

The panel has decided to proceed in the absence of Mr Champion. In reaching this decision, the panel has considered the submissions of Mr D’Alton, 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 Mr Champion;
- Mr Champion has informed the NMC that he has received the Notice of Hearing and confirmed he is content for the hearing to proceed in his absence;
- There is no reason to suppose that adjourning would secure his attendance at some future date; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Mr Champion in proceeding in his absence. He will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on his 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 Mr Champion's decisions to absent himself from the hearing, waive his rights to attend, and/or be represented, and to not provide evidence or make submissions on his own behalf.

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

Details of charge

1. On 16 April 2022 in relation to Patient B:
 - i) Failed to call the patient back.
 - ii) Incorrectly recorded a call had taken place with the patient.
 - iii) Accessed the patient's record without their consent.
 - iv) Incorrectly recorded you had obtained the patient's consent to view their records.

2. On 18 April 2022 in relation to Patient C:
 - i) Failed to call the patient back.
 - ii) Incorrectly recorded a call had taken place with the patient.
 - iii) Accessed the patient's record without their consent.
 - iv) Incorrectly recorded you had obtained the patient's consent to view their records.

3. On 18 April 2022 in relation to Patient D:
 - i) Failed to call the patient back.
 - ii) Incorrectly recorded a call had taken place with the patient.
 - iii) Accessed the patient's record without their consent.
 - iv) Incorrectly recorded you had obtained the patient's consent to view their records.

4. On 1 May 2022 in relation to Patient E:
 - i) Failed to call the patient back.
 - ii) Incorrectly recorded a call had taken place with the patient.
 - iii) Accessed the patient's record without their consent.
 - iv) Incorrectly recorded you had obtained the patient's consent to view their records.

5. On 4 May 2022 in relation to Patient A:

- i) Failed to call the patient back.
- ii) Incorrectly recorded a call had taken place with the patient.
- iii) Accessed the patient's record without their consent.
- iv) Incorrectly recorded you had obtained the patient's consent to view their records.

6. Your actions at one or more of the charges set out above in 1 to 5 were dishonest in that you:

- i) Sought to mislead anyone reading the records to believe you had made a call to the patient when you knew you had not.
- ii) Sought to mislead anyone reading the records to believe you had obtained the patient's consent when you knew you had not.

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

Admissions to charges

The panel noted that, in the Case Management Form, Mr Champion had made admissions to all of the charges. However, having read the papers, the panel considered that the apparent admissions made in respect of Charges 1(iii), 2(iii), 3(iii), 4(iii), 5(iii) and 6(ii) may not be appropriate and/or may be equivocal. Therefore, the panel determined to defer deciding whether any of the charges had been proved by way of admission.

Decision and reasons on application to admit hearsay evidence

The panel heard an application made by Mr D'Alton under Rule 31 to allow the written statement of Witness 1 into evidence. Witness 1 was not present at this hearing. She was available to attend the hearing but was informed by the NMC that her written statement will be put forward as hearsay and will not need to attend.

In the preparation of this hearing, the NMC had indicated to Mr Champion in the Case Management Form (CMF), dated 8 February 2024, that it was the NMC's intention for Witness 1's written statement to be put before the panel. Despite knowledge of the nature of the evidence in Witness 1's statement, Mr Champion made the decision not to attend this hearing. On this basis Mr D'Alton advanced the argument that there was no lack of fairness to Mr Champion in allowing Witness 1's written statement into evidence.

Mr D'Alton reminded the panel that under Rule 31, the panel has the discretion to admit evidence in the proceedings, including hearsay evidence, as long as it meets the criteria of being relevant and fair. He further referred the panel to the NMC guidance on '*Evidence*' (reference: DMA-6) and the case of *Thorneycroft v NMC* [2014] EWHC 1565 (Admin).

Mr D'Alton submitted that Witness 1's statement is not the sole and decisive evidence, and therefore, its exclusion would not meet the threshold for unfairness to Mr Champion.

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

The panel was of the view that, although Mr Champion had chosen not to attend this hearing, he was aware at the time of making that decision, that Witness 1's statement would be before the panel. Furthermore, in the Case Management Form, he had indicated that he agreed with the content of the statement.

The panel considered that Witness 1's evidence was plainly relevant to the issues in the case. Furthermore, it recognised that, in the Case Management Form, Mr Champion had indicated that he agreed with the content of the statement and had not suggested that Witness 1 had any reason to fabricate her evidence. The panel also accepted that, in the light of the apparent admissions, Witness 1's evidence was not the sole and decisive evidence in the case.

However, as already stated, the panel was not satisfied at this stage that some of the admissions were properly made and/or were unequivocal.

Mr Champion stated:

'the scr has been already formally consented to by the patient or their p.o.a prior to the call coming into the nhs 111 service. whenever i have spoken to patients or their carers and asked their permission to access their details not one person has ever said 'no' – on the contrary the common reply is along the lines of 'i thought you'd already done that' or 'haven't you got my information in front of you? ... there has and never was any intention or desire to be dishonest or breach confidentiality. all my calls are linked to my unique staff number and name.'

The panel considered that hearing oral evidence from Witness 1 was likely to provide clarification as she would be in a position to provide detailed evidence on the practices and processes Mr Champion was expected to follow in the role he was performing in April/May 2022. Mr D'Alton had informed the panel that Witness 1 was available to give evidence via Teams and, therefore, it determined that in fairness to Mr Champion and in

the wider public interest of ensuring that the issues in the case were fully explored, the application was refused.

The hearing was adjourned for a short time, after which Mr D'Alton confirmed that Witness 1 was able to give evidence via Teams that day.

Background

On 14 July 2022 Mr Champion was referred to the NMC by Witness 1, Head of Nursing at Hertfordshire Urgent Care (the Employer), where he had been employed as a remote clinical advisor for the NHS 111 service.

It is alleged that while working as a clinical advisor:

- on 4 May 2022, Mr Champion failed to call back Patient A, an elderly patient who had been assessed by a health advisor as requiring a call back from a clinical advisor within the hour for further assessment. This incident came to light, when the patient's wife called 111, on 5 May 2022 to lodge a formal complaint that they had not received a call from a clinician.
- on 16 April 2022, Mr Champion failed to call back Patient B who called with bilateral hip replacement and who had been assessed by a health advisor as requiring a call back from a clinical advisor.
- on 18 April 2022, Mr Champion failed to call back Patient C who called with dizzy spells and who had been assessed by a health advisor as requiring a call back from a clinical advisor.
- on 18 May 2022, Mr Champion failed to call back Patient D who called with a sore rectum and who had been assessed by a health advisor as requiring a call back from a clinical advisor.
- on 1 May 2022, Mr Champion failed to call back Patient E who had been assessed by a health advisor as requiring a call back from a clinical advisor.
- As Mr Champion did not call back Patient A, B, C, D, and E, he did not gain their consent to access the ADAstra records prepared by the health advisors.

Witness 1 explained that the consent sought by a clinical advisor was not the same as the consent that a patient may have given to a health advisor for the information provided to them to be shared with the patient's GP. Therefore, if a patient had consented to the information given to the health advisor being shared with their GP, the clinical advisor could not treat that as "implied consent" for them to access the summary care record. Such consent always had to be requested.

In the light of the oral evidence of Witness 1, the panel "revisited" the content of Mr Champion's preliminary response to the allegations at pages 166 to 169 of Exhibit 4.

Having done so, the panel was satisfied that Mr Champion was fully aware of the processes and protocols he was required to follow as a clinical advisor. In particular, he knew that:

- He was required to call patients back when they were referred to him by a health advisor for this purpose; and
- He was required to ask patients for their consent to access their summary care records.

As such, "*implied consent*" for him to access summary care records could not and did not arise in any of the five cases that are the subject of the charges. Furthermore, it was clear that Mr Champion deliberately chose not to follow these requirements in the five cases that are the subject of the charges. Instead, he sought to create the impression that he had followed the requirements by falsely recording that he had done so. The panel had no hesitation in concluding that, by the standards of ordinary, decent people, this was dishonest.

In the circumstances, the panel was satisfied that all of Mr Champion's admissions to the charges were properly made and were not equivocal.

Consequently, charges 1, 2, 3, 4, 5, and 6 are found proved in their entirety by virtue of Mr Champion's admission.

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 Mr Champion'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, Mr Champion's fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

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

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

Mr D'Alton identified the specific, relevant standards of the Code where Mr Champion's actions amounted to misconduct, namely paragraphs 1.1, 1.2, 2.1, 2.3, 2.4, 2.6, 3.1, 3.3, 5.1, 5.2, 6.1, 10.3, 13.1, 16.3, 19.1, 20.1, and 20.2.

Mr D'Alton stated that Mr Champion's actions were deliberate and fell well short of the standards that are expected of a registered nurse.

Submissions on impairment

Mr D'Alton moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin)

In relation to the case of *CHRE v NMC and Grant*, Mr D'Alton submitted that all four limbs of Dame Janet Smith's "test" are engaged. Mr D'Alton submitted that Mr Champion was the clinical advisor responsible for validating the information from health advisors, as well as ensuring that important details were not missed during the assessment to ensure that patients are put on the appropriate pathway. He submitted that Mr Champion had ignored procedures and pathways that were designed to protect the safety of patients and, although no actual harm came to patients, Mr Champion's actions had the potential to put patients at significant risk of harm.

Mr D'Alton submitted that honesty and integrity are some of the fundamental tenets of the nursing profession and that Mr Champion's dishonest conduct occurred over a significant period of time, and only came to light after a patient had made a complaint.

Mr D'Alton submitted that Mr Champion has demonstrated a lack of remorse and insight and has not completed any remediation to address the concerns raised, indicating a

serious risk of repetition in the future. He submitted that Mr Champion admitted to his actions but did not acknowledge any potential harm or impact that his actions may have had, and instead said that his actions were in the best interests of the patients.

Mr D'Alton submitted that Mr Champion's actions would seriously undermine public confidence in the nursing profession and would bring the profession into disrepute if a finding of impairment were not made on the ground of public interest. He submitted that patients have an expectation of privacy in respect of their medical records, and that Mr Champion has undermined the privacy of these patients, by accessing their patient records without their permission. Mr D'Alton submitted that a finding of impairment is also otherwise in the wider public interest in order to maintain confidence in the profession and the NMC as a regulator.

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.

Decision and reasons on misconduct

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

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

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

To achieve this, you must:

1.1 *treat people with kindness, respect and compassion*

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

2 Listen to people and respond to their preferences and concerns

To achieve this, you must:

- 2.1 *work in partnership with people to make sure you deliver care effectively*
- 2.3 *encourage and empower people to share decisions about their treatment and care*
- 2.4 *respect the level to which people receiving care want to be involved in decisions about their own health, wellbeing and care*
- 2.5 *respect, support and document a person's right to accept or refuse care and treatment*
- 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 assessed and responded to

To achieve this, you must:

- 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*
- 3.3 *act in partnership with those receiving care, helping them to access relevant health and social care, information and support when they need it*

4 Act in the best interests of people at all times

To achieve this, you must:

- 4.1 *balance the need to act in the best interests of people at all times with the requirement to respect a person's right to accept or refuse treatment*
- 4.2 *make sure that you get properly informed consent and document it before carrying out any action*

5 Respect people's rights to privacy and confidentiality

To achieve this, you must, as appropriate

5.1 *respect a person's right to privacy in all aspects of their care*

6 Always practise in line with the best available evidence

To achieve this, you must:

6.1 *make sure that any information or advice given is evidence-based, including information relating to using any health and care products or services*

8 Work cooperatively

To achieve this, you must:

8.5 *work with colleagues to preserve the safety of those receiving care*

10 Keep clear and accurate records relevant to your practice

To achieve this, you must:

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*

13 Recognise and work within the limits of your competence

To achieve this, you must:

13.1 *accurately identify, observe and assess signs of normal or worsening physical and mental health in the person receiving care*

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

To achieve this, you must:

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

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

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

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that Mr Champion ignored training, policy, and protocol and behaved in a way that increased the potential risk of harm to patients. The panel determined that the charges are indicative of a pattern of behaviour and deep-seated attitudinal problems.

The panel found that Mr Champion's actions, as set out in the charges both individually and cumulatively did fall seriously short of the conduct and standards expected of a registered nurse and amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Mr Champion'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 2024, which states:

'The question that will help decide whether a professional's fitness to practise is impaired is:

"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"

If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired.'

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

In this regard the panel considered the judgment of Mrs Justice Cox in the case of *CHRE v NMC and Grant* in reaching its decision. In paragraph 74, she said:

'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

In paragraph 76, Mrs Justice Cox referred to Dame Janet Smith's "test" which reads as follows:

'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/ fitness to practise is impaired in the sense that S/He:

- a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*

c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or

d) has in the past acted dishonestly and/or is liable to act dishonestly in the future.'

The panel determined that although there was no evidence of direct harm to patients, they were put at risk of harm. Mr Champion did not assess whether the patients' health had deteriorated or seek to confirm that the health advisor had selected the correct pathway of treatment.

Mr Champion's misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. The panel was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty over a period of time and involving a number of identified patients extremely serious.

The panel considered Mr Champion's account and determined that he did not recognise the potential harm that his actions could have caused, or that his previous actions put patients at risk of harm. It noted that Mr Champion received training on how to navigate the pathways and procedure that were required for his job role, but that he did not follow this training or take responsibility for his actions. The panel determined that this was not an isolated incident as it has occurred multiple times with multiple patients, and Mr Champion has not provided any information to suggest that these actions would not be repeated in the future.

The panel determined that there was a real risk of repetition and that Mr Champion does not accept his wrong-doing and referred to his account which says:

'...I AM SORRY THAT THIS IS THE CASE AND FULLY APPRECIATE WHY THEY (the NHS pathways and protocols) EXIST AND THE BENEFIT OF THIS

HOWEVER AS I HAVE STATED PREVIOUSLY NOT ONLY DO I POSSESS A LEVEL OF NURSING/CLINICAL KNOWLEDGE AND FAMILIARITY WITH THE NHS 111/PRIMARY/SECONDARY/COMMUNITY CARE SECTORS THE PATIENTS WELFARE IS UPPERMOST IN MY PRACTICE...'

In terms of context, the panel considered Mr Champion's statement regarding the pressures within his working environment but determined that this does not excuse his breach of protocol and the impact that this would have on patient safety.

Regarding insight, the panel determined that Mr Champion used his own judgement rather than following policy and procedure as he believed he was doing the right thing. It considered that Mr Champion made admissions to all of the charges, but that he has not accepted that his actions had the potential to put patients at a risk of harm. The panel also identified within the evidence, that there is a pattern of behaviour which is endorsed by Mr Champion's account which suggests that he acts autonomously outside of training, policy, and protocol and believes he was making '*the correct clinical outcome choice*', without recognising the potential impact and risk to patient care, as well as the impact on colleagues and the organisation. The panel determined that Mr Champion has demonstrated a lack of remorse and insight into his misconduct.

The panel carefully considered the evidence before it in determining whether or not Mr Champion has taken steps to strengthen his practice. The panel determined that Mr Champion has taken no steps to reflect, address or remediate the concerns identified and has not taken responsibility for his actions but has instead shifted the blame onto other colleagues and the NHS Pathway system.

The panel therefore 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 there is an expectation of the public that they would receive a call back from the 111 service when advised that they would receive one, however, Mr Champion did not call these patients back and dishonestly recorded that he had. The panel determined that Mr Champion has not identified the level of risk associated with his actions. Failure to uphold these expectations could make the public reluctant to access health and care services. The panel determined that the public may also lose confidence in the NHS and referenced a statement from Patient A's wife that *'I won't be calling 111 again'*.

The panel concluded that public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds Mr Champion's fitness to practise impaired on the grounds of public interest.

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

Mr D'Alton informed the panel that the NMC are seeking a striking-off order. He outlined the following aggravating factors:

- The conduct found proved occurred over a significant period of time;
- Mr Champion has shown a lack of remediation, insight, and remorse;
- Mr Champion's actions represent repeated dishonesty; and
- Mr Champion's actions would represent deep-seated attitudinal concerns

Mr D'Alton also outlined the following mitigating features:

- Mr Champion made early admissions to the charges; and
- Mr Champion has engaged with the NMC process

Mr D'Alton submitted that taking no further action, or imposing a caution order would not be appropriate in the circumstances given the seriousness of Mr Champion's actions.

Mr D'Alton submitted that there are no workable conditions that could be formulated to address the concerns in this case and thereby also sufficiently protect the public and meet

the public interest. He submitted that Mr Champion has not demonstrated any desire to take steps to remediate his misconduct.

Mr D'Alton then moved on to consider a suspension order but submitted that while the public would be protected by the imposition of a suspension order, from the evidence available, there is no real prospect of Mr Champion remediating the misconduct in this case, and therefore a suspension order would provide no real purpose.

Mr D'Alton submitted that the regulatory concerns raise fundamental concerns about Mr Champion's professional practice. He submitted that Mr Champion had clearly disregarded measures put in place to ensure public safety and submitted that public confidence in the nursing profession cannot be maintained unless Mr Champion is struck-off of the register. He submitted that Mr Champion has given no acknowledgement of the harm his actions could have caused and has not demonstrated any insight, remorse, or remediation in relation to the charges. Mr D'Alton submitted that a striking-off order is the only appropriate sanction to protect the public, meet the public interest, and uphold the proper professional standards. Mr D'Alton referred to the case of *Judge v NMC* [2017] EWHC 817 (Admin) and submitted that it was wishful thinking to expect that Mr Champion would develop insight and strengthen his practice during a period of suspension.

The panel accepted the advice of the legal assessor.

Decision and reasons on sanction

Having found Mr Champion'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 remorse and insight into failings
- Conduct which put patients at risk of suffering harm.
- Lack of acceptance and understanding of the risk of harm to patients
- A pattern of misconduct and dishonesty over a period of time
- Autonomous conduct which put patients at risk and breached safety protocols
- Deliberate choice in Mr Champion's actions
- Deep-seated attitudinal concerns

The panel did not identify any mitigating features in this case.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case, given that the case involves concerns of dishonesty that only came to light after concerns were raised by a patient's spouse. Having found that there is impairment based on current risk of harm to patients, 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 Mr Champion'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 Mr Champion'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 Mr Champion'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, that would protect the public. The panel did find evidence of deep-seated attitudinal behaviour but could find no evidence that Mr Champion would respond to training, or that he acknowledged any risk created. The panel noted it was a complete disregard to previous training, policy, and process that had led to the charges. Furthermore, the misconduct and dishonesty identified in this case was not something that can be addressed through retraining. The panel concluded that the placing of conditions on Mr Champion'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 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 found that the above factors were not applicable in this case, and Mr Champion's conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. It considered that this was not a single isolated incident, there is evidence of deep-seated attitudinal concerns, and a continued risk of repetition of the behaviour found proved.

The panel considered the slim possibility that Mr Champion may wish to return to nursing in the future, and a suspension order would serve to provide a period of reflection prior to his return to clinical practice. The panel considered the submissions in Mr Champion's

account to determine whether there existed any scope for remediation, reflection or sense of conforming to acceptable professional practice in deciding whether this option was anything other than *'wishful thinking'*. The panel found no evidence in support this, in fact, to the contrary, Mr Champion has asserted his desire not to return to nursing in his CMF dated 18 April 2023 and again in email correspondence on 29 May 2024. Furthermore, he has had two years to reflect and no new information has been forthcoming to support any alternate approach to address the serious concerns. Therefore, the panel concluded that a suspension would serve no useful purpose given the circumstances of this case, and it would not be a sufficient, appropriate or proportionate sanction.

The panel determined that the serious breach of the fundamental tenets of the profession evidenced by Mr Champion's actions is fundamentally incompatible with Mr Champion remaining on the register.

In reaching its decision, 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?*

Mr Champion's actions were significant departures from the standards expected of a registered nurse and are fundamentally incompatible with him remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Mr Champion's actions were serious and to allow him 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 Mr Champion's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct themselves, 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 Mr Champion in writing.

Interim order

Having delivered its decision on sanction, the panel asked Mr D'Alton whether the NMC were seeking an interim order. Mr D'Alton confirmed that the NMC were seeking an interim suspension order for a period of 18 months. The panel had already anticipated that such an application would be made.

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

The panel accepted advice from 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 for a period of 18 months to allow time for any possible appeal

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

That concludes this determination.