

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

**Substantive Meeting
Monday 29 July 2024 – Wednesday 31 July 2024**

Virtual Meeting

Name of Registrant: Denise Ann Donaldson

NMC PIN: 88E0652E

Part(s) of the register: Registered Nurse – Sub Part 1
Adult Nursing – July 1991

Registered Midwife – 5 November 1993

Nurse Independent / supplementary prescriber
(26 September 2006)

Relevant Location: Northampton

Type of case: Misconduct

Panel members: Patricia Richardson (Chair, lay member)
Rosalyn Mloyi (Registrant member)
Joanne Morgan (Lay member)

Legal Assessor: Jayne Salt

Hearings Coordinator: Rene Aktar

Facts proved: All

Facts not proved: N/A

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 the Notice of Meeting had been sent to Mrs Donaldson's registered email address by secure email by recorded delivery and by first class post on 14 June 2024.

Further, the panel noted that the Notice of Meeting was also sent to Mrs Donaldson's representative at the Royal College of Nursing (RCN) on 14 June 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, date and the fact that this meeting was heard virtually.

In light of all of the information available, the panel was satisfied that Mrs Donaldson 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:

Whilst employed at the King Edward Road Surgery, between June 2020 and July 2020

1. Did not carry out asthma reviews on one or more of the following patients listed in schedule 1.
2. Recorded that you had carried out asthma reviews on one or more of the following patients listed in schedule 1 when you knew you had not.

3. Your actions at charge 2 were dishonest in that you sought to create the impression that you had carried out the asthma reviews for one or more of the patients listed in schedule 1 when you knew you had not.

4. When asked by your employer on one or more of the following occasions listed below about the incident referred to in charges 1 and 2 did not give a true account:

a. 21 July 2020;

b. 24 July 2020.

5. Your actions at charge 4 were dishonest in that you sought to conceal the fact that you hadn't contacted one or more patients listed in schedule 1

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

Background

The background to the case as taken from the interim order review on 25 July 2024 is as follows:

'The NMC received a referral on 2 September 2020 from King Edward Road Surgery (the Surgery) where you were employed as a Lead Nurse that you had allegedly been falsifying patients' clinical records. A disciplinary investigation took place at the Surgery because it was alleged that you had falsified the records of at least 16 patients from April 2020 to July 2020. You allegedly recorded details of medications and observations of patients and issued repeat prescriptions without them being involved or aware.'

Decision and reasons on facts

In reaching its decisions on the disputed facts, the panel took into account all the documentary evidence in this case together with the representations made by the NMC, Mrs Donaldson and the RCN.

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.

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

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

Charge 1

Whilst employed at the King Edward Road Surgery, between June 2020 and July 2020

1. Did not carry out asthma reviews on one or more of the following patients listed in schedule 1.

This charge is found proved.

In reaching this decision, the panel took into account all of the documentary evidence put before it, including the witness statements, the Investigation report in which Mrs Donaldson made admissions and the RCN's letter dated 11 July 2024.

The panel took into account admissions made by Mrs Donaldson where she had acknowledged her actions and accepted the allegations. In Mrs Donaldson's updated reflective account, she stated:

[PRIVATE].

The panel acknowledged that there was evidence to suggest that two patients, namely Patient 10 and 11, had been contacted by Mrs Donaldson for review. In her interview during the internal investigations, she states that:

“Patient 10 had informed me that consultation with father of the child. [PRIVATE] so I prescribed Montelukast and the father did not agree and dint want the prescription, so declined that.” [sic]

“Patient 11: I had a 4 minute conversation with them about their hay fever medication.”

However, the panel decided that there were a number of patients who had not been contacted by Mrs Donaldson despite having recorded by her as having a review. It noted that Mrs Donaldson had also accepted that she had made mistakes and acknowledged where she had gone wrong.

The panel therefore found this charge proved.

Charge 2

2. Recorded that you had carried out asthma reviews on one or more of the following patients listed in schedule 1 when you knew you had not.

This charge is found proved.

In reaching this decision, the panel took into account all of the documentary evidence put before it, including the witness statements, and Mrs Donaldson own admissions.

The panel had regard to the telephone records which stated that Mrs Donaldson did not make those phone calls to the patients. It also took into account parts of Ms 1’s witness statement where she stated:

“I raised concerns regarding Denise after I had spoken with a patient. Whilst speaking with the patient I happened to mention their latest asthma review as per their patient notes and the patient told me they hadn’t had an Asthma review. I thought this was strange, so I mentioned it to [Mr 1], the practice manager to follow up.”

The panel also took into account Mr 1's statement where he stated:

"Initially I thought it could be a one-off error. But to be sure, I looked at a small sample of other recent reviews and checked with those patients if they could recall receiving a review. If it was documented in their records, it meant they had received one. We discovered more cases where patient's had reviews noted within their records, but when asked, stated they hadn't had the review."

Lastly, the panel took into account Mrs Donaldson's own admissions where she stated:

"I take accountability that I made a big mistake and understand that I totally messed things up, and failed to keep to the NMC Code. I should not have entered in the records of the patients I did not speak with, nor issued prescriptions without the patient's request or without discussing with the patient."

The panel was satisfied that Mrs Donaldson recorded that she had carried out the asthma reviews when she had not done so.

The panel therefore found this charge proved.

Charge 3

3. Your actions at charge 2 were dishonest in that you sought to create the impression that you had carried out the asthma reviews for one or more of the patients listed in schedule 1 when you knew you had not.

This charge is found proved.

In reaching this decision, the panel took into account all of the documentary evidence put before it, including the witness statements, and Mrs Donaldson own admissions.

The panel considered Mrs Donaldson's 'Updated Reflective statement' where she stated:

"I should not have entered in the records of the patients I did not speak with....."

I know that this is dishonest to do so. I accept and take responsibility for the charges, [PRIVATE], none of my actions were intentional. I do not know why I did what I did at the time, my only explanation is that my actions were totally out of character [PRIVATE]. Nevertheless, despite my position at the time [PRIVATE].”

[PRIVATE].

[PRIVATE].

The panel therefore found this charge proved.

Charges 4a and 4b

4. When asked by your employer on one or more of the following occasions listed below about the incident referred to in charges 1 and 2 did not give a true account:

- a. 21 July 2020;
- b. 24 July 2020.

These charges are found proved.

In reaching this decision, the panel took into account all of the documentary evidence put before it, including the witness statements, and Mrs Donaldson own admissions.

The panel had sight of Mr 1’s statement where he detailed in his investigation letter dated 30 January 2023:

‘Discussion with DD 21.7.20

“On 21 July I spoke to DD on the telephone (DD has been working at home since March 2020) to ask why these patients could not recall being spoken to by her. DD was unsure but surprised that they could not recall, as she thought she had spoken to them”.

Discussion with DD 24.7.20

“DD thought she may have made mistakes and found it very strange that there were so many reviews recorded where the patient did not recall a phone call. She said she could not recall everything, and had no idea why they were reporting no contact.”

The panel decided that Mrs Donaldson did not give a true account when asked about speaking to the patients.

The panel therefore found this charge proved.

Charge 5

5. Your actions at charge 4 were dishonest in that you sought to conceal the fact that you hadn't contacted one or more patients listed in schedule

This charge is found proved.

In reaching this decision, the panel took into account all of the documentary evidence put before it, including the witness statements, and Mrs Donaldson own admissions.

The panel took into account her comments in her 'Updated reflective statement':

“I can see how my actions are considered to be dishonest, [PRIVATE] I did not recognise that I had a problem, that is why I could not answer [Mr 1] (Surgery Manager at King Edward Road surgery) who asked what had happened, as I truthfully did not know and could not explain [PRIVATE]. I do understand how dishonesty within the profession can have such a damaging effect on the reputation of the profession and the Surgery. This is something I would ordinarily, [PRIVATE] have not done.”

The panel noted that whilst Mrs Donaldson initially suggested during the investigation interview that she could not understand why the patients could not recall having been reviewed by her, she later on, in the same interview, was able to recall specifically patients that she had made contact with and those that she had not.

[PRIVATE]. The panel were mindful of the elements required to be considered in dishonesty charges. The panel is satisfied that Mrs Donaldson was aware that she had not given a truthful account, when asked by her employer, as to why patients she had recorded as having had an asthma review could not recall having been contacted by her.

The panel was further satisfied that an ordinary and decent person would find her conduct dishonest.

[PRIVATE].

The panel therefore found this charge proved.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Mrs Donaldson's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

The panel, in reaching its decision, has recognised its statutory duty to protect the public and maintain public confidence in the profession. Further, it bore in mind that there is no burden or standard of proof at this stage, and it has therefore exercised its own professional judgement.

The panel adopted a two-stage process in its consideration. First, the panel must determine whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Mrs Donaldson's fitness to practise is currently impaired as a result of that misconduct.

Representations on misconduct and impairment

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

The NMC invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of ‘The Code: Professional standards of practice and behaviour for nurses and midwives (2018)’ (“the Code”) in making its decision.

The NMC identified the specific, relevant standards where Mrs Donaldson’s actions amounted to misconduct.

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 NMC invited the panel to find Mrs Donaldson’s fitness to practise impaired on the grounds that this is a case which involves the falsification of documents and dishonesty directly relating to patient care. She recorded that she carried out asthma reviews when she had not done so and tried to conceal information by providing inaccurate accounts of the care provided. Ms Donaldson’s actions call into question her honesty and integrity. The NMC submits that Ms Donaldson’s conduct has put patients at significant risk of harm. Ms Donaldson’s actions compromised patient safety and had the potential to cause serious harm to patients in her care.

The NMC submitted that Ms Donaldson’s failings have also breached fundamental tenets of the profession. Nurses are expected to act with kindness, compassion, and provide a high standard of care at all times. They are expected to treat people with dignity, keep people safe and to uphold the reputation of the profession. They also occupy a position of trust both as a nurse and employee. Ms Donaldson’s misconduct completely contradicts those fundamental tenets of nursing.

The NMC submitted that impairment is a forward-thinking exercise which looks at the risk that Mrs Donaldson's practice poses in the future. The NMC Guidance adopts 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: (i) whether the concern is easily remediable, (ii) whether it has in fact been remedied and (iii) whether it is highly unlikely to be repeated. The NMC considers that Mrs Donaldson has displayed limited insight. The case of Professional Standards Authority v HCPC and Wood [2019] EWHC 2819 (Admin) highlights that "A person who gives a false or misleading account of actions and events when first confronted with allegations of wrongdoing is highly likely to be a person who does not understand the importance of his professional responsibilities.

The NMC submitted that Ms Donaldson has shown some insight into her poor patient care and record-keeping failures through her reflective pieces. The NMC submitted that she has shown little or no genuine insight into her dishonest conduct and limited awareness of the implications of repeatedly and systematically creating false patient records and then attempting to cover-up her omissions in patient care.

The NMC submitted that Ms Donaldson has provided training certificates which appear to relate to some of the regulatory concerns and a number of character references. However, the NMC consider there is a continuing risk to the public due to the Mrs Donaldson's lack of full insight and failure to demonstrate any meaningful reflection in relation to her dishonest conduct. The NMC submitted that there is a significant risk of harm to the public were Mrs Donaldson be allowed to practise without restriction. A finding of impairment is therefore required for the protection of the public.

The NMC submitted that 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. Mrs Donaldson's conduct engages the public interest because members of the public would be appalled to hear of a nurse stating she had conducted asthma reviews when they had not been carried out as the review of asthma patients is important to assist in reducing asthma related patient mortality. Such conduct would severely damage and undermine public confidence in the nursing profession and the NMC, as the regulator. In addition, the NMC submitted that Ms Donaldson's dishonest conduct further damages public confidence and undermines the reputation and trust the public have in the profession. The NMC therefore

considered that 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.

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, *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.

The panel was of the view that Mrs Donaldson's actions did fall significantly short of the standards expected of a registered nurse, and that Mrs Donaldson'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

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

8 Work co-operatively

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 records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements

18 Advise on, prescribe, supply, dispense or administer medicines within the limits of your training and competence, the law, our guidance and other relevant policies, guidance and regulations

To achieve this, you must:

18.1 prescribe, advise on, or provide medicines or treatment, including repeat prescriptions (only if you are suitably qualified) if you have enough knowledge of that person's health and are satisfied that the medicines or treatment serve that person's health needs

18.3 make sure that the care or treatment you advise on, prescribe, supply, dispense or administer for each person is compatible with any other care or treatment they are receiving, including (where possible) over-the-counter medicines

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

20.9 maintain the level of health you need to carry out your professional role'

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 Mrs Donaldson's actions did fall seriously short of the conduct and standards expected of a nurse.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Mrs Donaldson's fitness to practise is currently 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/their fitness to practise is impaired in the sense that S/He/They:

- a) has in the past acted and/or is liable in the future to act so as to put a patient or patients at unwarranted risk of harm; and/or*
- b) has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*
- c) has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*
- d) has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

The panel finds that patients were put at risk and were caused harm as a result of Mrs Donaldson's misconduct. Mrs Donaldson's misconduct had breached the fundamental tenets of the nursing profession, acted dishonestly, and therefore brought its reputation into disrepute.

The panel was of the view that Mrs Donaldson's actions were serious, in particular, some patients were delayed in receiving the necessary care and treatment due to Mrs Donaldson recording reviews that she had not conducted. In addition, the panel were of the view that her actions in prescribing medication for some patients without having undertaken a review of their medical needs added to the seriousness of the charges. Nevertheless, the panel accepts the submissions made by the RCN that she has made substantial efforts to strengthen her practice and remediate the clinical concerns. The panel acknowledged that by the very nature of the charge, dishonesty is difficult to remediate however noted the numerous testimonials of her work both prior to the charges and after the involvement of the NMC which, amongst other attributes, speak of her record keeping and general good practice. The panel had consideration and acknowledged that Mrs Donaldson was working effectively with the support of her employer and that she had complied with the interim conditions of practice that was imposed upon her. [PRIVATE].

In considering her current impairment and future risk to patients and the reputation of the profession the panel went on to consider her level of insight into her failings. The panel considered that whilst Mrs Donaldson has made admissions to the conduct as detailed in the charges, [PRIVATE]. The panel noted that whilst this approach provided her with some insight into the possible reasons for her behaviour, it did not demonstrate that she had fully developed insight. [PRIVATE].

[PRIVATE].

The panel took into account Mrs Donaldson's reflective statement where she states that she had understood that her actions could have caused harm to patients, it also noted that she has shown remorse for the damage caused to the profession. Mrs Donaldson stated:

“I again heartily say how deeply sorry I am for the pain and anguish I have caused for my patients, and King Edward Road Practice. I realise how the loss of trust and lack of care appears to the public. [PRIVATE].”

The panel was of the view that Mrs Donaldson does not appear to take responsibility for the harm caused to patients, colleagues and the profession as a result of decisions she made, [PRIVATE].

The panel determined that in light of the limited evidence of accountability and insight, there is a potential risk in the future that, [PRIVATE], the misconduct may be repeated.

The panel was not satisfied that Mrs Donaldson is currently able to practice kindly, safely and professionally, and 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 considered there to be a public interest in the circumstances in this case. The panel found that the charges found proved are serious and include dishonesty. It was of the view that a fully informed member of the public would be concerned by its findings on facts and misconduct. In addition, the panel determined that other members of the nursing profession would find Mrs Donaldson’s conduct deplorable.

The panel determined that a finding of impairment on public interest grounds is required so as not to bring the reputation of the profession into disrepute and breach fundamental tenets of the profession.

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 Mrs Donaldson’s fitness to practise impaired on the grounds of public interest.

Having regard to all of the above, the panel was satisfied that Mrs Donaldson'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 Mrs Donaldson off the register. The effect of this order is that the NMC register will show that Mrs Donaldson 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 NMC submitted that although there are clinical failings in this case which further training could address, the underlying attitudinal concerns and the dishonesty in the misconduct cannot be addressed by a conditions of practice order. The NMC submitted that there are no conditions which can adequately address the dishonesty, nor can conditions address Mrs Donaldson's blatant disregard for patient safety. It would therefore not be appropriate or proportionate in these circumstances to impose conditions as they would not adequately protect the public or satisfy the significant public interest in this case.

The NMC submitted that a suspension order would only temporarily protect the public. The misconduct in this case does not consist of a one-off isolated incident; it was repeated, related to more than one patient and involved dishonest behaviour in relation to patient care. The NMC submitted that there are also underlying attitudinal concerns which cannot be addressed by a temporary removal from the register. The NMC submitted that a suspension order would not be sufficient to protect the public or satisfy the significant public interest in this case or mark the seriousness of the misconduct.

The NMC submitted that Mrs Donaldson's misconduct and dishonest actions are serious and fundamentally incompatible with her remaining on the register. Mrs Donaldson's

conduct involved dishonesty in a clinical setting. The NMC submitted that she stated that she had conducted asthma reviews when they had not been carried out and suggested changes to medication that the patients were on and prescribed new medication without reviewing the patients. The NMC submitted that Mrs Donaldson's conduct raises a fundamental question about her trustworthiness.

The NMC submitted that public confidence cannot be maintained if Mrs Donaldson is not removed from the register; the seriousness of the case requires permanent removal from the register. The NMC submitted that a striking-off order is the only sanction which will be sufficient to protect patients and maintain professional standards.

Decision and reasons on sanction

Having found Mrs Donaldson'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 in position of trust
- Limited insight
- Pattern of misconduct over a period of time
- Put patients at risk of harm
- Vulnerability of patient group

The panel also took into account the following mitigating features:

- Unblemished career
- [PRIVATE]
- [PRIVATE]
- Strengthening of practice

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 Mrs Donaldson'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 Mrs Donaldson'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 Mrs Donaldson'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. The panel acknowledged that Mrs Donaldson had been complying with conditions imposed on her practice by the NMC [PRIVATE]. However, in light of Mrs Donaldson's decision to retire from nursing, the panel decided that the imposition of conditions was no longer practicable. In any event the panel determined that a conditions of practice order was not an appropriate or proportionate sanction taking into account the seriousness of the charges. The panel have already highlighted in this determination it's view as to the seriousness of the dishonesty charges. In addition, the panel is of the view that the seriousness is aggravated by the particular vulnerability of the patients in this case. This incident occurred during the Covid Pandemic when patients with respiratory conditions were most vulnerable. [PRIVATE]. The panel was of the view that her conduct placed particularly vulnerable patients at risk of harm and concluded that the placing of conditions on Mrs Donaldson'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;*
- *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 was of the view that the charges relate to repeated clinical failings involving multiple vulnerable patients. Mrs Donaldson has shown limited insight into her failings. [PRIVATE].

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 Mrs Donaldson's actions is fundamentally incompatible with Mrs Donaldson 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?*

Mrs Donaldson's actions were a significant departure 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 Mrs

Donaldson'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 Mrs Donaldson'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 protect the public and 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 Mrs Donaldson in writing.

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Mrs Donaldson's own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Representations on interim order

The panel took account of the representations made by the NMC. The NMC submitted that if a finding is made, that Mrs Donaldson's fitness to practise is impaired on a public protection basis. The NMC submitted that an interim suspension order should be imposed on the basis that it is necessary for the protection of the public and otherwise in the public interest.

The NMC submitted that a finding is made that Mrs Donaldson's fitness to practise is impaired on a public interest only basis and that her conduct was fundamentally incompatible. The NMC submitted that an interim suspension order should be imposed.

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 cover the 28-day appeal period and the period during which any appeal may be heard.

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

That concludes this determination.