

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

**Substantive Hearing
Thursday, 25 July 2024 – Friday, 26 July 2024**

Virtual Hearing

Name of Registrant: Claribel Nebechi Ikeyina

NMC PIN: 18B0779E

Part(s) of the register: Registered Nurse – Sub Part 1
Mental Health – Level 1 (26 March 2018)

Relevant Location: Ireland

Type of case: A Determination by a licensing body elsewhere to the effect that your fitness to practice is impaired

Panel members: Richard Youds (Chair, Lay member)
Anne Rachael Browning (Registrant member)
Wayne Miller (Lay member)

Legal Assessor: Charles Parsley

Hearings Coordinator: Eyram Anka

Nursing and Midwifery Council: Represented by Alastair Kennedy, Case Presenter

Mrs Ikeyina: Present and represented by Carolina Bracken, Counsel, instructed by Royal College of Nursing (RCN)

Facts proved by way of admission: Charges 1 and 2

Fitness to practise: Impaired

Sanction: **Suspension order (12 months)**

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

Details of charge

That you, a registered nurse:

- 1) On 25 October 2021 were found guilty of professional misconduct by a Fitness to Practice Committee of the Nursing and Midwifery Board of Ireland.
- 2) Had your registration on the Register of Nurses and Midwives cancelled following a recommendation of the Fitness to Practice Committee of the Nursing and Midwifery Board of Ireland which was adopted by the High Court of Ireland on 18 July 2022.

AND in light of the above, your fitness to practise is impaired by reason of the findings of another body responsible for the regulation of nurses.

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

Ms Bracken made an application that this case be held partly in private on the basis that there may be some reference to [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Mr Kennedy indicated that he supported the application for the parts of this hearing that relate to [PRIVATE] to be heard in private.

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

The panel determined to go into private session as and when matters relating to [PRIVATE] are being discussed, in order to [PRIVATE].

Background

On 8 August 2022, the NMC received a referral from the Nursing and Midwifery Board Ireland (NMBI). The NMBI is the Irish equivalent of the NMC, and it is a statutory organisation which regulates the Nursing and Midwifery professions there.

The referral informed the NMC that you had been prohibited from nursing as a result of you fabricating two employment references in 2018. The NMC was informed that you faced ten allegations of dishonesty before the NMBI's Fitness to Practise Committee and all these allegations were proven by way of admission.

On 28 October 2021, the NMBI's Fitness to Practise Committee recommended the sanction of cancelling your registration as a nurse in Ireland due to your misconduct. A decision was made by the High Court of Ireland to adopt that recommendation on 18 July 2022. Because this was a direct referral from NMBI, the case has not been considered by the Case Examiners in the NMC.

On 23 November 2023, the NMBI held a meeting to consider your application for restoration to the Register of Nurses and Midwives in Ireland. The NMBI's decision to restore your name to the Register was confirmed to you in a letter dated 28 November 2023.

Decision and reasons on facts

The panel heard from Ms Bracken who informed the panel that you made full admissions to charges 1 and 2.

The panel therefore finds charges 1 and 2 proved in their entirety, by way of your admissions.

Before his submissions, Mr Kennedy outlined for the panel the framework within which it is operating. He told the panel that this is an unusual case in that it relates to a finding by a

professional regulator in a foreign jurisdiction. Mr Kennedy explained the basis of the allegation of impairment. He referred the panel to Article 22(1)(a)(v) of the 'Nursing and Midwifery Order 2001' (the Order), which states,

'...a determination by a body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession to the effect that his fitness to practise is impaired, or a determination by a licensing body elsewhere to the same effect...'

Mr Kennedy referred to the admissibility of the evidence in cases such as this, as outlined in Rule 31(4) of the Rules, which states,

'A certificate as to a determination about a registrant's fitness to practise made by –
(a) A body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession; or
(b) A licensing body elsewhere, signed by an officer authorised by the body to sign such certificates shall be admissible as prima facie evidence of the facts referred to in the determination.'

Further, Mr Kennedy referred the panel to the NMC guidance on 'Determinations by other health or social care organisations' (FTP-2f) which states,

'Decision makers sometimes receive referrals from these other organisations either in the UK or abroad, suggesting that a person also registered with us as a nurse, midwife or nursing associate has previously been impaired in their practice. When decision makers are looking at such referrals, they need to consider the potential impact on this person's nursing or midwifery practice in the UK or nursing associate practice in England.'

We will consider the scope and nature of the other organisation's determination and the factual background. We will assess how closely the issues relate to the practice of nursing or midwifery in the UK or nursing associate practice in England. We will also assess the underlying facts or issues, including any contextual factors and

whether these have been considered by the other regulatory body when making their decision. We will consider if, in light of these facts, the nurse, midwife or nursing associate could present a risk to members of the public by continued nursing, midwifery or nursing associate practice, or if the other body's finding could affect public confidence in the nursing, midwifery or nursing associate professions. Cases about determinations of other regulators will generally need us to take regulatory action. The only exceptions to this are:

- where it is clear to us that the nurse, midwife or nursing associate presents no current risk of harm to patients*
- the determination involves no potential impact on public confidence in the nursing, midwifery or nursing associate professions*
- there is no need, in the particular case, to take action to maintain proper professional standards and conduct.'*

It was Mr Kennedy's submission that it is clear from the guidance above that it is expected that the NMC will investigate cases such as this to decide if any action is required. Mr Kennedy submitted that it is the NMC's position that your behaviour does impact on public confidence in the nursing profession and that there is a need to take action to maintain proper professional standards and conduct. Therefore, these proceedings are necessary.

Fitness to practise

Having announced its findings on the facts, the panel then considered whether, on the basis of the facts found proved, your fitness to practise is currently impaired by reason of the determination of a licensing body elsewhere that your fitness to practise is impaired.

There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to remain on the register unrestricted and 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.

Submissions on misconduct

Mr Kennedy invited the panel to consider whether it was necessary to determine whether the facts found proved amount to misconduct before moving to consider current impairment. He referred 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 Kennedy submitted that on the basis of the charges found proved you have breached the following sections of 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015' (the Code): 20.1, 20.2, 20.3.

Mr Kennedy referred the panel to the NMBI Fitness to Practise Inquiry report dated 28 October 2021 which states that you engaged in *'...a relative sophisticated system by the creation of false emails accounts, email addresses and telephone numbers to facilitate the creation of false documentation purporting to be references given by persons who had not done so...'*. He told the panel that you *'dishonestly created email accounts in the name of real people'* and engaged in *'profoundly dishonest conduct in a professional respect'*.

Mr Kennedy told the panel that should it need to address the question of misconduct; it would have sufficient evidence before it to find that your dishonesty amounts to misconduct.

Ms Bracken told the panel that it may well find no difficulty in concluding that your actions amounted to misconduct because you made full admissions in the previous proceedings in Ireland.

Submissions on impairment

Mr Kennedy 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 cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin) and *Cohen v GMC* [2008] EWHC 581 (Admin).

Mr Kennedy submitted limbs 'b', 'c', 'd' of *Grant* are engaged. It was his submission that your behaviour has in the past brought and is liable in the future to bring the medical profession into disrepute. Further, Mr Kennedy submitted that your behaviour breached fundamental tenets of the profession and brought not only your reputation into disrepute, but potentially the reputation of the wider nursing profession. He told the panel that the public would not expect this behaviour from a registered nurse and honesty and integrity are the bedrock upon which the nursing profession is based. He reminded the panel of the NMBI Fitness to Practise Inquiry report dated 28 October 2022, which states that you engaged in a sophisticated dishonest scheme.

Mr Kennedy referred to the case of *Cohen* and reminded the panel of the fundamental considerations when deciding current impairment, namely the need to protect the public, the need to maintain public confidence in the profession, remediation, insight and the likelihood of repetition.

Mr Kennedy told the panel that your admissions at the outset of the NMBI proceedings shows insight and suggests that you were remorseful. He said that it is for the panel to decide based on the evidence before it whether you have demonstrated full insight into the impact of your behaviour. It was his submission that without full insight there remains a risk that this type of behaviour could be repeated.

In respect of remediation, Mr Kennedy told the panel that it is recognised that dishonesty is more difficult to remediate. However, he acknowledged that the charges relate to events that took place almost six years ago and your name was restored to the register in Ireland

following a meeting on 23 November 2023. Mr Kennedy referred the panel to the Transcript of the NMBI meeting held on 23 November 2023 which outlines the restoration procedure and seven criteria to be considered. He also referred to the letter dated 28 November 2023, from the NMBI detailing their decision following the meeting held on 23 November 2023. He highlighted that the letter simply states that you fulfilled the criteria set out in the statutory instrument and does not provide any further details about how the panel reached that conclusion. In the light of this, Mr Kennedy asked the panel to consider whether there is sufficient evidence of remediation.

Mr Kennedy drew the panel's attention to the transcript of the NMBI meeting in which there is reference to [PRIVATE]. Mr Kennedy asked the panel to bear in mind that [PRIVATE]. He submitted that although public protection is not at the forefront of this case, there is a public protection element. His submission was that there is a possibility that [PRIVATE], you may resort to dishonesty.

Mr Kennedy submitted that a finding of current impairment is necessary because the public would be concerned if a nurse who has engaged in such a dishonest scheme were allowed to practise in the profession. He said that the public would expect the NMC as regulator to take action to ensure that nurses who behaved in the way that you did do not repeat that behaviour.

Accordingly, Mr Kennedy submitted that a finding of current impairment is required, principally to uphold public confidence in the NMC as regulator, protect the reputations of the profession and maintain proper standards in the profession and to a lesser extent to protect members of the public in the future.

Ms Bracken told the panel that this is an unusual case because of its context. She respectfully asked the panel to make its decision on the basis of the information before it, even though there are some gaps. She referred to the transcript of NMBI meeting dated 23 November 2023 and said that although they relate to the original misconduct, they in large part focus on sanction.

When considering remediation and repetition, Ms Bracken submitted that the evidence before the panel suggest that you have understood the gravity of your misconduct. She referred to the NMBI transcript where it states that you *'fully realised how wrong it was, and that [you] had demonstrated an appreciation of the consequences of [your] actions'*. Ms Bracken submitted that you tried to remedy your actions as best you could by resigning from your job at the time and making early admissions. She told the panel that the evidence before it indicates that you showed appreciation for the gravity of those matters and insight into your misconduct.

Ms Bracken reminded the panel that the original misconduct dates back almost six years. She told the panel that the most up-to-date evidence before it, besides the reflective piece and character reference you provided, is the NMBI's decision to restore your name to the Register. It was her submission that reinstating you to the register is the most relevant and current evidence as to your impairment.

Ms Bracken informed the panel that you have taken positive steps to strengthen your practice, including completing a Masters degree. She told the panel that in cases of dishonesty the decision of impairment is approached with scrutiny. However, she submitted that based on the evidence before the panel, it would not be appropriate to find your fitness to practise currently impaired. Further, she told the panel that the question of impairment in this case is more nuanced. It was her submission that there is insufficient evidence to support a finding of current impairment.

The panel accepted the advice of the legal assessor. The legal assessor asked the panel to consider Article 22(1)(v) in the Order and Rule 31(2) of the Rules, when making its decision on impairment in this case. The legal assessor told the panel that the position here is analogous to a case where impairment is alleged by reason of a conviction. Where there is a conviction, the panel does not consider whether the facts of that amount to misconduct. As such, the legal assessor advised that by virtue of the finding of impairment by the NMBI, the panel's consideration should move directly to the issue of whether by reason of the NMBI's finding of impairment, you are currently impaired.

Decision and reasons on impairment

The panel accepted that when considering an allegation of this type, it did not need to make a preliminary determination on misconduct.

In making its decision on current impairment, the panel had regard to the Fitness to Practise Library, updated on 27 March 2023, which states:

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

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

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

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

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

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

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

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

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

The panel determined that limbs 'b', 'c' and 'd' of *Grant* are engaged. The panel was not satisfied that limb 'a' was engaged because the evidence before it is too tenuous to determine whether your actions put patients at unwarranted risk of harm in the past or are likely to put patients at unwarranted risk of harm in the future.

In respect of limbs 'b' and 'c', the panel took the view that your dishonest scheme has brought the medical profession into disrepute and has breached the fundamental tenets of the medical profession. When considering your liability in the future to bring the profession into disrepute and breach fundamental tenets of the profession, the panel determined that the evidence before it does not sufficiently address the risk of you repeating your dishonest behaviour.

In respect of limb 'd', the panel considered that your dishonesty has been proved by your admissions. The panel had regard to the fact that you created what was described as a '*relatively sophisticated system*' and your conduct was described as '*profoundly dishonest*'. The panel considered the extent of your dishonest conduct described in the NMBI Fitness

to Practise Inquiry report dated 28 October 2021 and determined that there is insufficient information before it to undermine its conclusion that you are liable to act dishonestly in the future.

Regarding insight, the panel considered that you made full admissions during this hearing and early in the NMBI proceedings which suggest some insight and remorse into your dishonest conduct. The panel acknowledged the contextual and personal factors that were submitted during the NMBI's Fitness to Practise Committee proceedings. The panel noted that [PRIVATE].

The panel determined that you have not demonstrated an understanding of why what you did was wrong and how this impacted negatively on the reputation of the nursing profession, colleagues, patients and the public. In particular, the panel considered that you have not demonstrated how you would handle the situation differently in the future. Consequently, it found that your insight, at this time, is limited.

Given the sophisticated level of deception, the panel took the view that it would be difficult to address but not impossible. The panel bore in mind that you were restored to the Irish Register of Nurses and Midwives in November 2023 because you fulfilled the seven criteria set in the Statutory Instrument No 88 of 2014 in respect of Section 79(2)(d) of the Nurses and Midwives Act 2011. However, the panel did not have sight of the rationale behind the NMBI decision or the evidence you provided that addressed the criteria, therefore, it could not be satisfied that you have adequately addressed the concerns.

The panel carefully considered the evidence before it in determining whether or not you have taken steps to strengthen your practice. The panel acknowledged that you have taken steps to keep your nursing knowledge up to date by completing mandatory healthcare training and a master's degree. However, the panel did not have any information to suggest that your learning and development is relevant to the charges found proved. The panel noted that it had no information that directly addresses the concerns identified.

The panel considered the character reference you provided dated 5 July 2024 and determined that although it spoke highly of your character it made no direct references to

the charges or the findings of dishonesty. The panel further considered your reflective piece and noted that it discusses Duty of Candour in detail. It took the view that this suggests a lack of understanding of the difference between candour and dishonesty, rather than supporting your case of strengthened practice.

The panel determined that there is a risk that your dishonest behaviour could be repeated due to your limited insight into the impact of your dishonesty. It may be that the risk is minimal as a result of the NMBI Fitness to Practise process, even so, given the lack of evidence before it, the panel could not be assured that matters of the kind found proved would not be repeated.

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 that the public would expect the NMC as regulator to make a finding of impairment against a registered nurse who has admitted charges of dishonesty. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious. The panel also noted that your dishonesty was related to your practice in the sense that you were attempting to secure a nursing position at Sunbeam House, in Ireland.

In the light of the above, the panel decided that a finding of impairment is not necessary on the ground of public protection. However, the panel determined that a finding of impairment on public interest grounds is required. Therefore, it made a finding of impairment on public interest grounds alone.

Having regard to all of the above, the panel was satisfied that your fitness to practise is currently impaired.

Sanction

The panel has considered this case very carefully and has decided to make a suspension order for a period of 12 months. The effect of this order is that the NMC register will show that your registration has been suspended.

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 Kennedy informed the panel that in the Notice of Hearing, dated 20 June 2024, the NMC had advised you that it would seek the imposition of a striking-off order if it was found that your fitness to practise is currently impaired.

Mr Kennedy took the panel through what, in his submission, were the aggravating and mitigating factors in this case.

Mr Kennedy outlined the reasons why lesser sanctions are inappropriate in this case, with reference to the relevant sections of the SG. Mr Kennedy submitted that a striking off order is the appropriate sanction in this case. He referred to Sanctions guidance SAN-2 which states,

‘...a nurse, midwife or nursing associate who has acted dishonestly will always be at some risk of being removed from the register...’

Mr Kennedy submitted that it is recognised that not all dishonesty is equal, there are some that are more serious and some that are less serious. He told the panel that the guidance suggests that more serious dishonesty will include matters such as:

- *‘a premeditated, systematic, or longstanding deception’*
- *‘personal financial gain from a breach of trust’*

Mr Kennedy submitted that the matters set out above apply in this case. It was his submission that in the circumstances of this case, where your registration was cancelled in Ireland, public confidence in nurses in the UK can only be maintained by removal from the NMC Register.

Ms Bracken accepted that any case involving dishonesty is serious however, she said that this does not automatically mean that the most serious sanction will be appropriate and proportionate. She submitted that the history in this case is a relevant factor that should be considered.

Ms Bracken reminded the panel that this is misconduct dating back to 2018, which means that a sanction that was proportionate some years ago may not be proportionate at this time.

Ms Bracken asked the panel to consider the reference to [PRIVATE] when assessing the likelihood of repetition. She told the panel that [PRIVATE] identified the very particular [PRIVATE] context in which your dishonest conduct occurred, particularly the [PRIVATE]. She submitted that the conclusions of [PRIVATE] put your misconduct in proper context which is relevant for what sanction is appropriate. Ms Bracken said that this incident arose in an otherwise unblemished career and there is no suggestion that you engaged in misconduct, not only before but subsequently.

Ms Bracken addressed the suggestion that your misconduct was for personal financial gain. She submitted that there is no evidence to support this assumption. She referred to the transcript of the NMBI meeting on 23 November 2023, in which it states, '*... the references were created for the purposes of expediency and there was no personal gain.*'

Ms Bracken submitted that a brief period of suspension would be appropriate and proportionate in this case because she conceded that there are no workable conditions that would be relevant to the charges found proved. She told the panel that a brief period of suspension would mark to the public the seriousness of the underlying misconduct. It was her submission that given the history of this case, a striking-off order would be

disproportionate and would not properly reflect the learning and impact of the previous strike-off decision by the NMBI.

The panel accepted the advice of the legal assessor.

Decision and reasons on sanction

Having found your 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:

- Breach of the trust in terms of the normal employment recruiting process
- Limited insight into your failings
- Premeditated and sophisticated act of dishonesty that would have led to personal gain, if successful

The panel also took into account the following mitigating features:

- Early admissions
- Continued to stay up to date by completing a Master's degree
- [PRIVATE]

In reaching its decision, the panel considered the guidance on 'Considering sanctions for serious cases' (SAN-2), namely the section about cases involving dishonesty.

Although Ms Bracken submitted that your fabrication of the testimonials was for reasons of expediency, the panel considered that it would have resulted in personal and financial gain had you been successful in securing the position as a registered nurse. The panel was

satisfied that your dishonest conduct was a one-off incident, but it noted that the dishonesty itself was premeditated and sophisticated.

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 risk of repetition and your limited insight an order that does not restrict your 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 your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the issues identified. 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 your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be relevant, proportionate, measurable and workable. The panel took into account the SG, in particular:

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of general incompetence;*

The panel took the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The misconduct identified in this case was not something that can be addressed through retraining as this was not a practice related incident. Furthermore, the panel concluded that the placing of conditions on your registration would not meet the public interest or adequately address the seriousness of this case.

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 [some] insight and does not pose a significant risk of repeating behaviour;*

The panel was satisfied that in this case, the misconduct was not fundamentally incompatible with remaining on the register. The panel determined that public confidence in nurses can be maintained if you are not removed from the register.

It did go on to consider whether a striking-off order would be proportionate but, taking account of all the information before it, and of the mitigation provided, the panel concluded that it would be disproportionate. The panel took the view that a striking-off order is not the only sanction which will be sufficient to maintain professional standards. Whilst the panel acknowledges that a suspension may have a punitive effect, it would be unduly punitive in your case to impose a striking-off order.

In considering whether a suspension order was a proportionate sanction, the panel also took into account that you had been removed from the Nursing Register in Ireland for a period of 16 months in respect of the same misconduct with which this panel is concerned.

The panel noted the hardship such an order will inevitably cause you. However, this is outweighed by the public interest in this case.

The panel considered that this order is 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.

In making this decision, the panel carefully considered the submissions of Mr Kennedy in relation to the sanction that the NMC was seeking in this case. However, the panel considered that a striking-off order would be disproportionate in this case.

The panel determined that a suspension order for a period of 12 months is appropriate in this case to mark the seriousness of the misconduct.

At the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Continued engagement with the NMC
- Attendance at a future review hearing
- Further evidence of insight
- Testimonials from any employment, paid or unpaid.
- Character references

This will be confirmed to you in writing.

Interim order

As the suspension 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 your own interests until the suspension sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Submissions on interim order

Mr Kennedy submitted that given the panel's finding of impairment on public interest grounds alone, there are no public protection issues to be addressed. Therefore, he told the panel that he had no application to make.

Ms Bracken told the panel that she did not have any submissions to make in respect of an interim order.

Decision and reasons on interim order

The panel was satisfied that an interim order 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 for the appeal period as not to do so would be inconsistent with its previous findings. In making this order, the panel took account of the impact the order will have on you and is satisfied that this order, for this period, is appropriate and proportionate.

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

That concludes this determination.