

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

Substantive Hearing

**Monday 27 February 2023 – Thursday 2 March 2023 & Monday 6 – Wednesday 8
March 2023**

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

Thursday 9 March 2023
Virtual Hearing

Wednesday 24 July 2024 – Friday 26 July 2024
Nursing and Midwifery Council
2 Stratford Place, Montfichet Road, London, E20 1EJ

Name of registrant: Elizabeth Ogbuanya Offier

NMC PIN: 04C02850

Part(s) of the register: Registered Nurse – Adult (sub part 1)
RN1: Level 1 (March 2004)

Relevant Location: Middlesbrough, Stockton-on-Tees, Gateshead
Metropolitan

Type of case: Misconduct

Panel members: Patricia Richardson (Chair, Lay member)
Pauline Esson (Registrant member)
Alice Robertson Rickard (Lay member)

Remitted Hearing (24 – 26 July 2024)
Philip John Sayce (Chair, Registrant member)
Jane Lewry (Registrant member)
Alison James (Lay member)

Legal Assessor: John Bassett

Remitted Hearing (24 – 26 July 2024)
John Moir

Hearings Coordinator:	Sherica Dosunmu
	Remitted Hearing (24 – 26 July 2024) Dilay Bekteshi
Nursing and Midwifery Council:	Represented by Leeann Mohamed, Case Presenter
	Remitted Hearing (24 – 26 July 2024) Represented by Susan Jean, Case Presenter
Reverend Offier:	Not present and unrepresented at the hearing
Facts proved:	Charges 1, 6(a), 6(b), 7, 8, 9(a), 9(b), 10
Facts not proved:	Charges 2, 3(a), 3(b), 4, 5
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 Reverend Offier was not in attendance and that the Notice of Hearing letter had been sent to Reverend Offier's registered email address on 25 January 2023.

Ms Mohamed, 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 Reverend Offier's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all of the information available, the panel was satisfied that Reverend Offier 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 Reverend Offier

The panel next considered whether it should proceed in the absence of Reverend Offier. It had regard to Rule 21 and heard the submissions of Ms Mohamed who invited the panel to continue in the absence of Reverend Offier.

Ms Mohamed referred the panel to the NMC guidance in respect of proceeding with hearings when a registrant is absent. She invited the panel to consider all of the known circumstances, and be guided by the following principles from the NMC guidance:

- *'the public interest in the expeditious disposal of the case*
- *the inconvenience to any witnesses that have attended or due to attend*
- *whether the nurse, midwife or nursing associate has engaged with the proceedings and their reasons for non-attendance (this should include whether the reason for non-attendance is supported by independent evidence)*
- *the unfairness to the nurse, midwife or nursing associate if the proceedings were to continue, for example, they will not have the opportunity to question evidence or provide their own evidence to the panel in person*
- *whether it is fair, appropriate and proportionate to proceed in the nurse, midwife or nursing associate's absence.'*

Ms Mohamed submitted that there is public interest in the expeditious disposal of the case. She submitted that the charges in this case date back to 2019 and there is public interest in proceeding today as the matters of concern are from four years ago.

Ms Mohamed reminded the panel that there are six witnesses due to give evidence at this hearing. She submitted that the concerns in this case date back several years, which may have an impact on witness memory if the hearing is adjourned. Additionally, she submitted that not proceeding today may cause inconvenience to the witnesses due to give evidence.

Ms Mohamed referred the panel to correspondence between the NMC and Reverend Offier. In an email, dated 5 February 2023, Reverend Offier confirmed her non-attendance to the NMC, in which she stated:

'I confirm that I won't be able to attend.'

Ms Mohamed informed the panel that on 7 February 2023, the NMC sent an email to Reverend Offier to ascertain if she required any assistance to attend the hearing, but

Reverend Offier did not respond. She submitted that on that basis, Reverend Offier had voluntarily absented herself.

Ms Mohamed submitted that, in respect of any unfairness, Reverend Offier has not requested an adjournment and based on the information provided, there is no reason to suppose that an adjournment would secure her attendance at some future date. She submitted that it was therefore fair, appropriate and proportionate to proceed today as Reverend Offier has not given any reasons for her non-attendance.

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 Reverend Offier. In reaching this decision, the panel has considered the submissions of Ms Mohamed, 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:

- Reverend Offier has informed the NMC by email that she will not be attending the hearing;
- No application for an adjournment has been made by Reverend Offier;
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- The charges relate to events that occurred in 2019;
- Six witnesses are due to give evidence, and may be caused inconvenience if there was a delay to this hearing;

- Further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Reverend Offier in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her at her registered email address she will not be able to challenge the evidence relied upon by the NMC and will not be able to give evidence on her own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Reverend Offier's decisions to absent herself from the hearing, waive her rights to attend, and/or be represented, and to not provide evidence or make submissions on her own behalf.

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

Decision and reasons on application to amend the charge

The panel heard an application made by Ms Mohamed to amend the wording of charge 3.

The proposed amendment was to change the wording in charge 3 from '*22 April 2019*' to '*23 April 2019*'. Ms Mohamed submitted that it is apparent from the evidence in this matter that the date in charge 3 is incorrect as the allegations in this charge relate to the morning of Reverend Offier's night shift on 22 April 2019, which was 23 April 2019. She submitted that the proposed amendment to charge 3 would more accurately reflect the evidence and would be useful to provide clarity.

Original charge 3:

- 3) On 22 April 2019 failed to;
 - a. Administer intravenous antibiotic medication to three patients and/or
 - b. Administer insulin medication to two patients

Proposed charge 3:

- 3) On ~~22~~ **23** April 2019 failed to;
 - a. Administer intravenous antibiotic medication to three patients and/or
 - b. Administer insulin medication to two patients

The panel accepted the advice of the legal assessor and had regard to Rule 28.

The panel was of the view that such an amendment was in the interests of justice. The panel was satisfied that there would be no prejudice to Reverend Offier and no injustice would be caused to either party by the proposed amendment being allowed. It was therefore appropriate to allow the amendment, as applied for, to ensure clarity and accuracy.

Details of charge (as amended)

That you, a registered nurse

1. On 11 April 2019 signed initials of Colleague A on an unknown patient's medical records **[PROVED]**
2. Your conduct at Charge 1 above was dishonest because it created the false impression that Colleague A had signed the medical record when you knew she had not **[NOT PROVED]**
3. On 23 April 2019 failed to;

- a. Administer intravenous antibiotic medication to three patients and/or **[NOT PROVED]**
- b. Administer insulin medication to two patients **[NOT PROVED]**
4. On either 22 April 2019 or 23 April 2019 incorrectly recorded in one or more patient records that you had given intravenous antibiotic medication when you had not **[NOT PROVED]**
5. Your conduct at Charge 4 above was dishonest because at the time you created the patient record, you knew it contained information which was factually inaccurate **[NOT PROVED]**
6. On your application for employment at Firstcall Healthcare, signed 27 August 2019, when asked to state your 'full employment history including agency work' did not disclose your employment at
 - a. Pulse Agency and/or **[PROVED]**
 - b. Standby Agency **[PROVED]**
7. On your 'Qualified Staff Questionnaire' submitted during your employment at Firstcall Healthcare, when asked if you have ever been subject of a 'disciplinary or investigation by an employer', you declared that you had not, when you had been subject to an investigation whilst employed at Pulse Agency **[PROVED]**
8. Did not inform Firstcall Healthcare Agency that you had been referred to the Nursing & Midwifery Council **[PROVED]**
9. Following being made subject to an interim conditions of practice order by the Investigating Committee of the Nursing & Midwifery Council on 07 November 2019, breached said order in one or more of the following ways;
 - a. Condition 1, in that you worked at 'Scarborough Court' on 07 December 2019, when there was no other registered nurse on shift to provide supervision. **[PROVED]**

b. Condition 6, in that you did not immediately, or at all, provide a copy of your interim conditions of practice order to Firstcall Healthcare Agency **[PROVED]**

10. Your conduct at Charge 6 and/or Charge 7 and/or Charge 8 and/or Charge 9 above was dishonest because your actions sought to prevent Firstcall Healthcare Agency from learning information about you which may have had an adverse effect on your employment with them. **[PROVED]**

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

Background

The NMC received a referral on 11 October 2019 from Pulse Healthcare Limited (Pulse), which is part of Independent Clinical Services Group Limited (ICS). Reverend Offier registered with Pulse on 22 November 2018 as a Band 5 registered nurse. At the time of the concerns raised in the referral, Reverend Offier was working as a registered nurse through Pulse at South Tees Hospitals NHS Foundation Trust (STH Trust) and North Tees and Hartlepool NHS Foundation Trust (NTH Trust). Reverend Offier's last shift through Pulse was on 22 - 23 April 2019.

The referral alleges that concerns were raised with Pulse regarding Reverend Offier's clinical practice on shifts that she undertook on 11 April 2019 and 22 - 23 April 2019.

On 11 April 2019 Reverend Offier was working a night shift on an acute stroke admission unit (Ward 28) at James Cook University Hospital, which is part of STH. It is alleged that during this shift Reverend Offier signed a patient's bowel charts with another nurse's initials (Colleague A), to indicate that she and Colleague A had attended to the patient. It is alleged that Reverend Offier signed Colleague A's initials dishonestly.

On 22 April 2019 Reverend Offier was working on a night shift on Ward 29 at NTH. It is alleged that during this shift Reverend Offier failed to give three patients their intravenous

antibiotic medication and a further two patients were not given their insulin. It is further alleged that Reverend Offier signed some of the patient records to indicate she administered the medication when she did not.

The concerns raised about Reverend Offier's clinical practice between 11 April 2019 and 23 April 2019 were investigated by Pulse. Pulse attempted to hold a breach of contract meeting with Reverend Offier in relation to the concerns raised on 24 July 2019 but was unable to do so due to Reverend Offier's non-attendance. Pulse attempted to schedule the breach of contract meeting on several different occasions between July 2019 to September 2019, however, Reverend Offier failed to attend on all occasions due to health reasons. On 4 October 2019, Pulse held the breach of contract meeting in Reverend Offier's absence and later made a referral to the NMC on 11 October 2019.

Whilst Reverend Offier was under investigation by Pulse, she applied for employment with Firstcall Healthcare Agency (Firstcall) on 27 August 2019. It is alleged that when Reverend Offier applied for employment with Firstcall, she did not disclose that she had previously worked for Pulse or Standby Agency and had been subject to an investigation by Pulse. Reverend Offier started working with Firstcall on 15 September 2019 as a self-employed registered nurse, where she completed shifts at Ponteland Manor, The Oaks, Byker Hall, Northlea Care Homes, Royal Hampton Wallace House, Scarborough Court Care Homes, between September 2019 and December 2019.

On 7 November 2019, a panel of the NMC's investigative committee placed an interim conditions of practice order on Reverend Offier's registration in relation to the referral made by Pulse on 11 October 2019. It is alleged that despite the restrictions placed on her practice, Reverend Offier breached the interim conditions of practice order imposed, in that she worked at Scarborough Court on 7 December 2019 when there was no other registered nurse on shift to provide supervision, and did not provide a copy of her conditions to Firstcall.

Decision and reasons on facts

In reaching its decisions on the facts, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Ms Mohamed on behalf of the NMC and the written representations from Reverend Offier.

The panel has drawn no adverse inference from the non-attendance of Reverend Offier.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities. This means that a fact will be proved if a panel is satisfied that it is more likely than not that the incident occurred as alleged.

The panel heard live evidence from the following witnesses called on behalf of the NMC:

- Colleague 1: Clinical Director at Pulse;
- Colleague 2: Ward 28 Manager at STH;
- Colleague 3: Registered Nurse on Ward 28 at STH;
- Colleague 4: Ward 29 Manager at NTH;
- Colleague 5: Nurse Manager at Firstcall; and
- Colleague A: Registered Nurse on Ward 28 at STH.

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the witness and documentary evidence provided by both the NMC and Reverend Offier.

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

Charge 1

1. On 11 April 2019 signed initials of Colleague A on an unknown patient's medical records.

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Colleague 1, Colleague 2 and Colleague A. The panel had regard to the documentary evidence exhibited, which included an email statement from Reverend Offier, dated 29 April 2019, and Reverend Offier's responses sent to Pulse on 4 September 2019 in relation to the breach of contract investigation meeting.

The panel noted that Colleague 1, Colleague 2 and Colleague A all provided written evidence, consistent with their oral evidence, indicating that Reverend Offier signed a patient's bowel chart using Colleague A's initials.

Additionally, the panel considered that Colleague 1, Colleague 2 and Colleague A's accounts were further supported by Reverend Offier's first account, dated 29 April 2019, in which she stated:

'At the end of the procedure I documented on the stool chart, then put down my initial. I then asked the staff that we both did the procedure together her initial so that I put it down, she became very angry and said why should her initial be there it should only be my initial. I was surprised and felt embarrassed at her reactions because two initials are required after carrying out a procedure.'

The panel also took into account Reverend Offier's response to Pulse on 4 September 2019, in which she appears to accept that she used her colleague's initials:

'[...] The nurse that carried out administration of bed pan told me her initials when I asked her after the procedure so that I put it down with my own initials which was the right procedure. The nurse was fully aware. I did not do anything wrong.'

The panel determined that on the evidence, it was satisfied that, on the balance of probabilities, Reverend Offier wrote the initials of Colleague A on a patient's medical records on 11 April 2019.

Accordingly, the panel found charge 1 proved.

Charge 2

2. Your conduct at Charge 1 above was dishonest because it created the false impression that Colleague A had signed the medical record when you knew she had not

This charge is found NOT proved.

In reaching this decision, the panel took into account the evidence of Colleague 1, Colleague 2 and Colleague A. The panel had regard to the documentary evidence exhibited, which included an email statement from Reverend Offier, dated 29 April 2019, and Reverend Offier's responses sent to Pulse on 4 September 2019 in relation to the breach of contract investigation meeting.

The panel applied the legal test for dishonesty and referred to the case of *Ivey v Genting Casinos* [2017] UKSC 67. The panel considered whether Reverend Offier deliberately attempted to create a false impression that Colleague A had signed her initials on the patient's medical record; and whether she was dishonest in doing so.

The panel considered Reverend Offier's first account, dated 29 April 2019, in which she explained why she used her colleague's initials at the time:

'At the end of the procedure I documented on the stool chart, then put down my initial. I then asked the staff that we both did the procedure together her initial so that I put it down, she became very angry and said why should her initial be there it should only be my initial. I was surprised and felt embarrassed at her reactions because two initials are required after carrying out a procedure.'

The panel also considered that Reverend Offier sent through the following response to Pulse on 4 September 2019, in which she explains:

'[...] The nurse that carried out administration of bed pan told me her initials when I asked her after the procedure so that I put it down with my own initials which was the right procedure. The nurse was fully aware. I did not do anything wrong.'

The panel noted Reverend Offier's account that both she and Colleague A undertook the care of the patient together (in respect of which Colleague A's initials were written), was not disputed in either Colleague 1 or Colleague 2's evidence. Further, the panel noted that Reverend Offier's account was supported by Colleague A's oral evidence, in which she confirmed that she had carried out the procedure alongside Reverend Offier.

Further, the panel noted that Reverend Offier's accounts at the time consistently indicated that it was her understanding that as both she and Colleague A carried out the procedure, both their initials were required. The panel found that this was supported by Colleague 1's written witness statement in which she stated:

'My understanding is that the procedure is that two members of staff must attend to the patient and the initials of both staff should be noted on the bowel chart, but the registrant put her and the other nurse's initials...'

The panel found that Colleague 1, Colleague 2 and Colleague A's evidence in respect of the procedure when signing initials after completing a joint procedure were inconsistent. The panel noted that it was not able to assess the bowel chart as it was not provided to the panel by the NMC.

In respect of the first limb of the test for dishonesty, the panel was of the view that Reverend Offier did not seek to deliberately create a false impression that Colleague A had signed her initials on the patient's medical record, as it was her understanding at the time that Colleague A's initials were also required since they both completed the procedure.

The panel therefore concluded that, by the standards of ordinary and decent people, Reverend Offier was not dishonest, in including both her and Colleague A's initials on the notes since she believed two initials ought to have been recorded at the time.

Accordingly, the panel finds charge 2 not proved.

Charge 3

3. On 23 April 2019 failed to;
 - a. Administer intravenous antibiotic medication to three patients and/or

This charge is found NOT proved.

In reaching this decision, the panel took into account the evidence of Colleague 4. The panel had regard to the documentary evidence exhibited, which included patient records, Electronic Prescribing and Administration System (EMPA) charts and a Daily Routine Wall Chart. It also considered an email statement from Reverend Offier, dated 11 May 2019.

The panel noted the following evidence from Colleague 4's written witness statement, in which she stated the following:

'[...] on the morning of 23 April 2019, the registrant had failed to give three patients their antibiotic medication and a further two patients were not given their insulin, according to the [below discussed] ePMA charts (electronic prescribing and administration system) and the patient insulin charts [respectively]...'

The panel further noted that in her oral evidence, Colleague 4 explained that it was '*traditional*' on the ward for nurses to administer the morning dose of intravenous antibiotics between 06:00 and 07:00.

The panel first considered whether Reverend Offier was under a duty to administer intravenous antibiotic medication to the three patients who did not receive their prescribed doses on the morning of 23 April 2019, before the end of her shift. The panel noted that on 23 April 2019, Reverend Offier's shift ended at 08:00.

The panel observed the patient records, EMPA charts and a Daily Routine Wall Chart in relation to the time slots allocated for medication administration. The panel found that the documentary evidence indicated that medication administration begins at 08:00, which was the end of Reverend Offier's shift. The panel found that the documentary evidence did not support the assertion that Reverend Offier had a duty to administer the intravenous antibiotics before the end of her shift.

The panel acknowledged the evidence that it was usual practice for the morning dose of intravenous antibiotics to be given by the night nurses, but noted the contextual factors referred to in Colleague 4's written witness statement:

'The Ward is a 30 bedded unit. We would usually have 3 nurses on during the day and night shift to look after 30 patients. However, on this particular shift, we were running with only 2 rather than 3 nurses. The registrant was responsible for the adult patients...'

It also noted Colleague 4's oral evidence that this would have an impact on the ability of Reverend Offier to complete all of the tasks on the shift. Therefore, in these circumstances, the panel was not satisfied that Reverend Offier had a duty administer the intravenous antibiotics prior to the end of her shift.

Accordingly, the panel finds that as there was no duty that charge 3a is not proved.

Charge 3

3. On 23 April 2019 failed to;
 - b. Administer insulin medication to two patients.

This charge is found NOT proved.

In reaching this decision, the panel took into account the evidence of Colleague 4. The panel had regard to the documentary evidence exhibited, which included patient records, Electronic Prescribing and Administration System (EMPA) charts and a Daily Routine Wall Chart. It also considered an email statement from Reverend Offier, dated 11 May 2019.

The panel noted the following evidence from Colleague 4's written witness statement, in which she stated the following:

'[...] on the morning of 23 April 2019, the registrant had failed to give three patients their antibiotic medication and a further two patients were not given their insulin, according to the [below discussed] ePMA charts (electronic prescribing and administration system) and the patient insulin charts [respectively]...'

The panel further noted that in her oral evidence, Colleague 4 explained that it was '*traditional*' and optimum practice on the ward for nurses to administer insulin 20 - 30 minutes before patients received their breakfast, which was served at 07:00.

The panel first considered whether Reverend Offier was under a duty to administer insulin to the two patients who did not receive their prescribed doses on the morning of 23 April 2019, before the end of her shift. The panel noted that on 23 April 2019, Reverend Offier's shift ended at 08:00.

The panel observed the patient records, EMPA charts and a Daily Routine Wall Chart in relation to the time slots allocated for medication administration. The panel found that the documentary evidence indicated that medication administration begins at 08:00, which was the end of Reverend Offier's shift. The panel found that the documentary evidence did not support the assertion that Reverend Offier had a duty to administer insulin before the end of her shift.

Whilst the panel acknowledged the evidence that it was optimum practice for insulin to be administered 20 – 30 minutes before breakfast was served, the panel noted the contextual factors referred to in Colleague 4's written witness statement:

'The Ward is a 30 bedded unit. We would usually have 3 nurses on during the day and night shift to look after 30 patients. However, on this particular shift, we were running with only 2 rather than 3 nurses. The registrant was responsible for the adult patients...'

It also noted Colleague 4's oral evidence that this would have an impact on the ability of Reverend Offier to complete all of the tasks on the shift. Colleague 4's evidence also appears to confirm Reverend Offier's account that she had 15 patients to care for on that shift *'in a very busy diabetic ward'*.

The panel further acknowledged Reverend Offier's statement, dated 11 May 2019, in which she said:

'I didn't know that I had to do all the insulin before breakfast is ready. It was when I was handing over in the morning that the ward sister taking over said to me that

usually on their ward the night shift staff administer all insulins to patients who are on it early in the morning. This is contrary to hospital Trusts that I have worked where the morning staff administer insulin.'

In light of all of the above, the panel was not satisfied that Reverend Offier had a duty to administer the insulin prior to the end of her shift.

Accordingly, the panel finds charge 3b not proved.

Charge 4

4. On either 22 April 2019 or 23 April 2019 incorrectly recorded in one or more patient records that you had given intravenous antibiotic medication when you had not.

This charge is found NOT proved.

In reaching this decision, the panel took into account the evidence of Colleague 4. The panel had regard to the documentary evidence exhibited, which included patient records, Electronic Prescribing and Administration System (EMPA) charts and a Daily Routine Wall Chart. It also considered an email statement from Reverend Offier, dated 11 May 2019.

The panel observed the patient records for Patient A, Patient B and Patient C. The panel did not accept that in these records Reverend Offier was recording medication that she had yet to administer (the morning dose) and was in fact recording medication she had already given (the evening dose).

The panel found that Reverend Offier refers in her notes to medication that was '*duly administered*' during her shift. The panel noted that in an entry on Patient B's notes at 02:53, Reverend Offier referred to prescribed medication as '*to have at 6am*', which is a clear indication that it had not yet been administered. The panel determined that such entry supported the conclusion that her record keeping was accurate and factual.

The panel found that this was also supported by Colleague 4's oral evidence, in which she indicated that she interpreted Reverend Offier's notes to relate to medication she administered during her night shift, as opposed to the morning medication which she had not administered.

The panel acknowledged that in Reverend Offier's statement, dated 11 May 2019, she appeared to accept that she incorrectly recorded that she administered intravenous antibiotic medication:

'I did my very best to finish all my work but it was not possible. I had only 2 IV antibiotics left to be done which I handed over to the morning staff. I thought I would finish and that was why I documented that the IV antibiotics have been done. But I did handover the 2 IV antibiotics that were not done.'

The NMC relies upon this as an admission by Reverend Offier to this charge, however the panel had regard to the fact that when Reverend Offier responded to Pulse in the course of its investigation, there is no evidence that she was provided with the patient records or any other relevant documents. The investigative meeting conducted by Pulse consisted of it sending her a list of written questions and inviting her written response. While the panel understood why this procedure was adopted, it found it probable that Reverend Offier could not recall accurately what she had or had not recorded in the notes.

The panel therefore determined to place little weight on Reverend Offier's alleged admission as this is contradicted by the contemporaneous patient notes. The panel was satisfied that the patient notes demonstrated that Reverend Offier did not incorrectly record that she had given intravenous antibiotic medication where she had not.

Accordingly, the panel finds charge 4 not proved.

Charge 5

5. Your conduct at Charge 4 above was dishonest because at the time you created the patient record, you knew it contained information which was factually inaccurate

This charge is found NOT proved.

The panel reminded itself that charge 4 was found not proved.

Therefore, in these circumstances the panel found charge 5 not proved.

Charge 6

6. On your application for employment at Firstcall Healthcare, signed 27 August 2019, when asked to state your 'full employment history including agency work' did not disclose your employment at

a. Pulse Agency and/or

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Colleague 5. The panel had regard to the documentary evidence exhibited, which included Reverend Offier's completed Firstcall application form and transcripts of a meeting held on 16 January 2020 between Reverend Offier and Firstcall.

The panel noted the following evidence from Colleague 5's written witness statement, in which she stated the following:

'The registrant had first applied for employment with the Company on 27 August 2019. I produce a copy of the application form she completed dated 27 August 2019 as Exhibit DG/2A. I note she has signed the declaration on the form to declare that the information provided on this application is accurate. Looking at the

application, I can see she did not mention working with Pulse Nursing Agency anywhere on her application form and who I understand from the NMC had made the previous case referral, so she did not inform me of her full employment history. In her employment history she stated that from “12/2/12 till date” she had been working as an “RGN UK” at A24 group. She said she had not left them. She then said from “15/5/11” to “10/7/14” she had been working as an “RGN UK” doing some sort of hospital work in Coventry. It appeared to me that A24 was her main employer for five years. Nowhere on the application has she disclosed working at Standby Agency.’

The panel observed the Firstcall application form completed by Reverend Offier, which was signed and dated 27 August 2019. The panel noted that on Firstcall’s application form, there is a section which stated, ‘*full employment history including agency work*’. However, as a matter of fact Reverend Offier did not include her employment with Pulse in this section, or anywhere else on the application form.

Colleague 5 told the panel, and the panel accepted, that Reverend Offier should have disclosed all agencies she had worked for however short the period she had worked for them. The panel accepted it would be important for Firstcall to have a full employment record as this might be relevant regarding which references was sought.

Accordingly, the panel found charge 6a proved.

Charge 6

6. On your application for employment at Firstcall Healthcare, signed 27 August 2019, when asked to state your ‘full employment history including agency work’ did not disclose your employment at

b. Standby Agency

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Colleague 5. The panel had regard to the documentary evidence exhibited, which included Reverend Offier's completed Firstcall application form and transcripts of a meeting held on 16 January 2020 between Reverend Offier and Firstcall.

The panel noted the following evidence from Colleague 5's written witness statement, in which she stated the following:

'The registrant had first applied for employment with the Company on 27 August 2019. I produce a copy of the application form she completed dated 27 August 2019 as Exhibit DG/2A. I note she has signed the declaration on the form to declare that the information provided on this application is accurate. Looking at the application, I can see she did not mention working with Pulse Nursing Agency anywhere on her application form and who I understand from the NMC had made the previous case referral, so she did not inform me of her full employment history. In her employment history she stated that from "12/2/12 till date" she had been working as an "RGN UK" at A24 group. She said she had not left them. She then said from "15/5/11" to "10/7/14" she had been working as an "RGN UK" doing some sort of hospital work in Coventry. It appeared to me that A24 was her main employer for five years. Nowhere on the application has she disclosed working at Standby Agency.'

In the typed summary of the meeting that took place between Colleague 5's Director of Firstcall and Reverend Offier on 16 January 2020, it is recorded that Reverend Offier was asked if she had ever worked for Standby Agency and that she had admitted that she started with that agency in July 2019 but had only worked about three shifts for them. Reverend Offier also admitted that she did not disclose this work in her application to Firstcall. The panel recognised that this does not appear in the handwritten notes of that meeting as provided to the panel. However, the panel accepts the accuracy of the typed notes and has concluded that part of the handwritten notes have not been provided by

accidental omission as the copy of the handwritten notes provided to the panel appeared to be incomplete. However, the panel accepted the accuracy of the transcript.

The panel observed the Firstcall application form completed by Reverend Offier, which was signed and dated 27 August 2019. The panel noted that on Firstcall's application form, there is a section which stated, '*full employment history including agency work*'. As a matter of fact, Reverend Offier did not include her employment with Standby Agency in this section, or anywhere on the application form.

The panel was satisfied that, in light of the above, Reverend Offier did not disclose her employment with Standby Agency in her application for employment at Firstcall.

Accordingly, the panel found charge 6b proved.

Charge 7

7. On your 'Qualified Staff Questionnaire' submitted during your employment at Firstcall Healthcare, when asked if you have ever been subject of a 'disciplinary or investigation by an employer', you declared that you had not, when you had been subject to an investigation whilst employed at Pulse Agency.

This charge is found proved.

In reaching this decision, the panel took into account the documentary evidence exhibited in relation to Pulse's investigation and Firstcall's Qualified Staff Interview Questionnaire.

The panel reviewed the chronology of the events in the documentary evidence concerning Pulse's investigation, in order to understand if Reverend Offier would have been aware of the investigation at the time of her application to Firstcall.

The panel noted that a complaint was made to Pulse on 16 April 2019. In response to this complaint, Reverend Offier provided an email statement to Pulse, dated 29 April 2019. A further complaint was then made to Pulse on 23 April 2019. In response to this complaint, Reverend Offier provided an email statement to Pulse, dated 11 May 2019. Subsequently, Pulse attempted to schedule a breach of contract meeting for 17 July 2019 but Reverend Offier informed Pulse on 18 July that she was unable to attend due to being unwell. This meeting was rescheduled on a number of later occasions at Reverend Offier's request. On 15 August 2019, Reverend Offier indicated that she wanted the questions of the meeting to be emailed to her. The panel noted that these questions were sent to Reverend Offier, titled '*INVESTIGATION MEETING PLAN – [...] – to be completed by 22nd August 2019*'.

The panel noted that the '*investigation meeting plan*' was not returned to Pulse by Reverend Offier until 4 September 2019. However, the panel determined that in light of the title of the documentation and the preceding correspondence between Pulse and Reverend Offier, it was satisfied that Pulse's investigation was known to Reverend Offier prior to her completion of the '*Qualified Staff Questionnaire*' to Firstcall.

The panel found that on Reverend Offier's '*Qualified Staff Questionnaire*' submitted to Firstcall on 27 August 2019, she declared she had not been subject of a '*disciplinary or investigation by an employer*', when she would have been aware of Pulse's investigation at the time.

Accordingly, the panel found charge 7 proved.

Charge 8

8. Did not inform Firstcall Healthcare Agency that you had been referred to the Nursing & Midwifery Council.

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Colleague 5. The panel had regard to the documentary evidence exhibited, which included transcripts of a meeting held on 16 January 2020 between Reverend Offier and Firstcall.

The panel noted that Reverend Offier was working with Firstcall between September 2019 and December 2019. The panel noted that a referral was made to the NMC on 11 October 2019, and a NMC hearing took place on 7 November 2019 where the interim conditions of practice order was imposed. It further noted that Reverend Offier was represented at that hearing.

The panel noted that in a meeting held by Firstcall in respect of the NMC restrictions on Reverend Offier's practice, the following was noted:

'In November 2019 Betty received a letter from the NMC. Betty did not report this to First call Healthcare as she felt devastated.'

The panel determined that as a matter of fact Reverend Offier did not inform Firstcall of the NMC's referral.

Furthermore, the panel was satisfied that once Reverend Offier commenced employment with Firstcall, she was under a continuing duty to inform them of any subsequent referral to the NMC.

Accordingly, the panel found charge 8 proved.

Charge 9

9. Following being made subject to an interim conditions of practice order by the Investigating Committee of the Nursing & Midwifery Council on 07 November 2019, breached said order in one or more of the following ways;

a. Condition 1, in that you worked at ‘Scarborough Court’ on 07 December 2019, when there was no other registered nurse on shift to provide supervision.

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Colleague 5. The panel had regard to the documentary evidence exhibited, which included Reverend Offier’s submissions to the NMC in respect of the breach of conditions regulatory concerns.

The panel noted the following evidence from Colleague 5’s written witness statement, in which she stated the following:

‘Following my discovery of the ICOP, I had to check how many shifts she had worked as the only nurse on duty. By this time, the registrant had worked one night shift on 7 December 2019 as the only nurse in charge at Scarborough Care Home. She had worked 25 December 2019 and 26 December 2019 elsewhere at [Royal Hampton] and [Wallace House] but was supervised. The only shift relevant to the breach of conditions is the 7 December one. I informed staff not to book any more shifts for her.’

The panel noted that in Reverend Offier’s submissions to the NMC on the 3 May 2020, she accepted that she had breached the interim conditions imposed on her practice, in which she stated the following:

‘In the referral by Firstcall healthcare Agency to NMC they stated that I did a night shift alone after NMC placed Interim Conditions on my Pin number of which I was not supposed to as the Conditions state that I have to work with two or more nurses on duty.’

I wish to explain that I never intended to breach the terms of NMC Conditions on my Pin number. [PRIVATE] that I went on to do a shift in a Nursing Home where a Senior carer was also on duty.'

The panel determined that, in light of the above, Reverend Offier worked at 'Scarborough Court' on 7 December 2019 when there was no other registered nurse on shift to provide supervision, in breach of the interim conditions of practice order imposed on her registration.

Accordingly, the panel found charge 9a proved.

Charge 9

9. Following being made subject to an interim conditions of practice order by the Investigating Committee of the Nursing & Midwifery Council on 07 November 2019, breached said order in one or more of the following ways;

b. Condition 6, in that you did not immediately, or at all, provide a copy of your interim conditions of practice order to Firstcall Healthcare Agency

This charge is found proved.

In reaching this decision, the panel took into account the evidence of Colleague 5. The panel had regard to the documentary evidence exhibited, which included transcripts of a meeting held on 16 January 2020 between Reverend Offier and Firstcall.

The panel noted the following evidence from Colleague 5's written witness statement, in which she stated the following:

'I did not know anything about the registrant's interim conditions of practice (ICOP) order or the Nursing and Midwifery Council investigation until after a routine search I undertook on 19 December 2019 (Exhibit DG/6) when I found out that the

registrant's ICOP had been applied on 7 November 2019. I do a full PNC check of every nurse. I found out that she was given direction by the NMC not to be the only nurse on duty on any one shift and to also inform her employer or any potential employers but she failed to do so and had it not been for a routine NMC check it still would not have come to light. The registrant did not mention it at all to me until I had done this NMC PIN check'

The panel noted that in a meeting with Colleague 5's Director of Firstcall on 16 January 2020, Reverend Offier accepted that she did not inform Firstcall of the interim conditions imposed of her practice. In the notes of the meeting the following is recorded:

'Betty also stated she did not advise First Call Healthcare as it was available for all to see if we contacted the NMC and she was feeling low and confused.'

The panel is satisfied that, in light of the above Reverend Offier did not provide a copy of her interim conditions of practice order to Firstcall, as required by condition 6.

Accordingly, the panel found charge 9b proved.

Charge 10

10. Your conduct at Charge 6 and/or Charge 7 and/or Charge 8 and/or Charge 9 above was dishonest because your actions sought to prevent Firstcall Healthcare Agency from learning information about you which may have had an adverse effect on your employment with them.

This charge is found proved.

In reaching this decision, the panel had regard to the documentary evidence exhibited, which included Reverend Offier's submissions to the NMC, dated 16 January 2020.

The panel had regard to its reasoning for charges 6, 7, 8, and 9, in relation to the information withheld from Firstcall by Reverend Offier. The panel applied the legal test for dishonesty (*Ivey v Genting Casinos*).

The panel considered whether Reverend Offier deliberately withheld information in an attempt to minimise disclosure to Firstcall; and whether she was dishonest in doing so.

The panel noted that in Reverend Offier's submissions to the NMC, dated 16 January 2020, she stated the following:

'I wish to explain that I never intended to breach the terms of NMC Conditions on my Pin number. Rather I was in such a financial difficulty that I went on to do a shift in a Nursing Home where a Senior carer was also on duty.'

The panel noted that the explanation offered by Reverend Offier was focused on the financial implications of not working. In light of this explanation, the panel was satisfied that Reverend Offier deliberately withheld the information in charges 6,7,8, and 9b in order to minimise adverse financial consequences. The panel did not regard Reverend Offier's conduct in relation to charge 9a involved her withholding information.

The panel concluded that, by the standards of ordinary and decent people, Reverend Offier's actions were dishonest.

Accordingly, the panel found charge 10 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 Reverend Offier'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 suitability to remain on the register unrestricted.

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

Submissions on misconduct

Ms Mohamed invited the panel have 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.*'

Ms Mohamed invited the panel to take the view that the facts found proved amount to misconduct. She identified the specific, relevant standards in 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' (the Code) that she submitted have been breached and where Reverend Offier's actions amounted to misconduct.

Ms Mohamed reminded the panel that not all breaches of the Code amount to misconduct. She submitted that Reverend Offier's actions found proved in charge 1 breached paragraph 10.4 of the Code, in which it is stated '*attribute any entries you make in any paper or electronic records to yourself, making sure they are clearly written, dated and*

timed, and do not include unnecessary abbreviations, jargon or speculation.' She submitted that although Reverend Offier acted in breach of the Code, her actions in charge 1 alone may not amount to misconduct given the panel's determination that charge 2 was not proved.

Ms Mohamed submitted that Reverend Offier's actions found proved in all the other charges (charge 6 – 10) breached the following sections of the Code and amounted to misconduct:

'8 Work co-operatively

8.2 maintain effective communication with colleagues

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

8.6 share information to identify and reduce risk

20 Uphold the reputation of your profession at all times

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

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

23 Cooperate with all investigations and audits

23.3 tell any employers you work for if you have had your practice restricted or had any other conditions imposed on you by us or any other relevant body.'

Submissions on impairment

Ms Mohamed 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. Ms Mohamed referred to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Ms Mohamed submitted all four limbs of the test set out by Dame Janet Smith in the fifth Shipman report and adopted in *Grant* were engaged in this case, in that Reverend Offier:

- 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 profession into disrepute;*
- c) *Has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the profession;*
- d) *Has in the past acted dishonestly and/or is liable to act dishonestly in the future.*

Ms Mohamed submitted that Reverend Offier acted in the past so as to put patients at unwarranted risk of harm when she breached her interim conditions of practice order, which was put in place to ensure patient safety.

Ms Mohamed submitted that by not complying with her interim conditions of practice order, despite being aware of it, Reverend Offier has shown disregard for her regulator and is liable to bring the profession into disrepute.

Ms Mohamed submitted that Reverend Offier's actions have breached fundamental tenets of the profession, as she has acted dishonestly, did not comply with an investigation into her practice and did not work cooperatively.

Ms Mohamed submitted that Reverend Offier has demonstrated limited insight into the impact her actions on the profession and how this could have impacted on patient safety, therefore there is a risk of repetition.

Ms Mohamed invited the panel to find Reverend Offier's fitness to practise impaired on both public protection and public interest grounds.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments.

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 appreciated that breaches of the Code do not automatically result in a finding of misconduct. In assessing whether the conduct found proved amounted to misconduct, the panel considered the charges individually and the circumstances of the case as a whole. It took account of all the evidence before it.

The panel found that in charge 1 Reverend Offier wrote the initials of Colleague A on a patient's bowel chart. The panel considered whether Reverend Offier's actions in this regard constituted a breach of paragraph 10.4 of the Code, which refers to a nurse having to attribute any entries made in paper or electronic records to themselves. The panel noted that the evidence in relation to charge 1 indicated that Reverend Offier and Colleague A both undertook care of the patient, in respect of which both their initials were written on the chart by Reverend Offier. The panel bore in mind that it was not provided with a copy of the bowel chart in question. In light of the fact that Reverend Offier also wrote down her own initials, the panel could not be satisfied that she was trying to attribute her entry to Colleague A or whether she was simply indicating that Colleague A took part in the joint procedure. The panel therefore concluded that Reverend Offier's actions in charge 1 was not in breach of paragraph 10.4 of the Code and did not amount to misconduct.

While the panel considered its findings in respect of charge 6a, charge 6b, charge 7, charge 8 and charge 9b separately, it also had regard to the fact that its findings demonstrated a pattern of conduct by Reverend Offier, particularly when considered in

conjunction with its findings in respect of charge 10. The panel found that Reverend Offier dishonestly withheld information from her employer in an attempt to minimise disclosure about her employment history; dishonestly withheld information from her employer regarding her referral to the NMC and interim conditions of practice order; and dishonestly breached the conditions imposed on her practice by withholding the information about the interim order. The panel took into account that Reverend Offier's actions in these charges were motivated [PRIVATE] and that she prioritised her own need to earn money above her responsibility to be transparent with those employing her. The panel determined that in these circumstances Reverend Offier acted in breach of the following paragraphs of the Code:

'20 Uphold the reputation of your profession at all times

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

20.2 act with honesty and integrity at all times...

23 Cooperate with all investigations and audits

23.3 tell any employers you work for if you have had your practice restricted or had any other conditions imposed on you by us or any other relevant body.'

The panel was of the view that honesty and integrity are fundamental to the nursing profession and Reverend Offier has not acted in a manner which upholds the standards and values set out in the Code. The panel determined that Reverend Offier's actions in each charge did fall significantly short of the standards expected of a registered nurse, thereby damaging the trust that the public places in the profession. It therefore found that charge 6a, charge 6b, charge 7, charge 8 and charge 9b amounted to serious misconduct.

The panel also considered charge 9a separately. The panel found that in charge 9a Reverend Offier breached the interim conditions of practice order imposed on her registration when she worked at Scarborough Court with no other registered nurse on shift to provide supervision. The panel bore in mind its earlier finding that Reverend Offier's

conduct in relation to this charge did not involve dishonesty. However, the panel took into account that Reverend Offier's reason for working in breach of the interim conditions of practice order was motivated by the potential adverse personal financial implications. The panel reminded itself of the first sentence in the preamble to the Prioritise People section of the Code:

'You put the interest of people using or needing nursing or midwifery services first'

The panel determined that by working in breach of her interim conditions of practice in order to [PRIVATE], Reverend Offier put her own interest above those of the patients within her care. The panel was satisfied that Reverend Offier had, in this respect also, acted in breach of paragraph 20.1 of the Code, as she failed to uphold the standards and values set out in the Code. The panel was satisfied this amounted to serious misconduct.

The panel therefore concluded that Reverend Offier's actions found proved in charges 6 – 10 did fall seriously short of the conduct and standards expected of a nurse and amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Reverend Offier'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 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.'*

Taking into account all of the evidence adduced in this matter, the panel was not satisfied that Reverend Offier placed patients at unwarranted risk of harm in the past, nor is she

liable to do so in the future. The panel bore in mind its earlier findings that the allegations in relation to Reverend Offier's clinical practice were not proved. The panel therefore determined that limb 'a' of the 'test' was not engaged.

The panel was, however, satisfied that Reverend Offier's misconduct did engage limbs 'b', 'c' and 'd' of the 'test'. Having found that Reverend Offier disregarded conditions imposed on her practice by the regulator, behaved dishonestly, and prioritised her needs above patients within her care, the panel determined that Reverend Offier's misconduct had breached the fundamental tenets of the nursing profession and has in the past brought its reputation into disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

The panel next went on to consider the matter of insight. It took into account Reverend Offier's response to the regulatory concerns in an email dated 3 May 2020. The panel found that Reverend Offier demonstrated some remorse and limited insight. However, the panel also found that Reverend Offier did not fully address all the concerns about her practice. The panel found that in her response, Reverend Offier did not demonstrate insight into the wider consequences of her failure to adhere to conditions imposed by the regulator, nor her failure to disclose relevant information to her employer about her employment history. The panel was of the view that Reverend Offier has not demonstrated a full understanding of how her actions impacted negatively on the reputation of the nursing profession.

The panel was satisfied that the misconduct in this case is capable of remediation, although it noted that dishonesty was inherently more difficult to remediate. It acknowledged steps taken by Reverend Offier to strengthen her practice, which included the completion of a number of online training courses in 2019, relating to her clinical practice. However, the panel bore in mind that the facts found proved in this case did not concern issues with her clinical practice. The panel also took into account that the training undertaken by Reverend Offier was in 2019 and there was no recent information to

demonstrate that she has attempted to strengthen her current practice. The panel therefore concluded that it has not received sufficient information to suggest that Reverend Offier has taken steps to address the specific concerns raised in this case.

The panel was of the view that due to the limited insight, remorse and evidence of strengthened practice, there remains a real risk of repetition of the misconduct. The panel acknowledged that in her email response, dated 3 May 2020, Reverend Offier asserted the following:

'I sincerely apologise for having done this [PRIVATE] and I strongly state here that I will never do such a thing again.'

The panel noted, however, that the misconduct in this case was motivated by Reverend Offier's [PRIVATE] and it was not presented with any information regarding Reverend Offier's current circumstances. The panel determined that in the absence of further information, it could not be satisfied that Reverend Offier would act differently in similar circumstances in the future.

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

On the basis of the evidence in this case, the panel found that Reverend Offier's actions did not present a risk to patient safety or present any public protection issues. Therefore,

the panel determined that a finding of impairment on public protection grounds was not necessary.

Having regard to all of the above, the panel was satisfied that Reverend Offier's fitness to practise is currently impaired.

Remitted Hearing on 24 – 26 July 2024

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Reverend Offier was not in attendance and that the Notice of Hearing letter had been sent to Reverend Offier's registered email address by secure email on 20 June 2024.

Ms Jean, 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, reason for remittal, the time, dates and venue of the hearing and, amongst other things, information about Reverend Offier's right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all of the information available, the panel was satisfied that Reverend Offier 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 Reverend Offier

The panel next considered whether it should proceed in the absence of Reverend Offier. It had regard to Rule 21 and heard the submissions of Ms Jean who invited the panel to continue in the absence of Reverend Offier.

Ms Jean referred the panel to the email correspondence between Reverend Offier and the NMC case coordinator. She told the panel that Reverend Offier [PRIVATE] has not sought any postponement of today's hearing. Further, On 19 June 2024, she was asked whether she would like to attend virtually but did not respond. In these circumstances, she submitted that Reverend Offier has voluntarily absented herself from today's proceedings. She therefore invited the panel to proceed in the absence of the registrant.

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 Reverend Offier. In reaching this decision, the panel has considered the submissions of Ms Jean 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 Reverend Offier;
- The panel considered the email from Reverend Offier on 18 June 2024, [PRIVATE]. The NMC case coordinator followed up with an email suggesting a virtual hearing as an alternative, but Reverend Offier did not respond. Consequently, the panel inferred that she was aware of the proceedings and had made a voluntary decision to not attend.

- There is no reason to suppose that adjourning would secure her attendance at some future date; and
- There is a strong public interest in the expeditious disposal of the case.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Reverend Offier.

PSA appeal

Ms Jean told the panel that this is a remitted hearing brought by PSA in respect of previous panel's decision. She took the panel through the factual background of the case, the evidence placed before the original panel and the previous panel's decision.

Ms Jean took the panel through the PSA appeal against the original panel decision and appeal hearing came before High Court Judge on 6 March 2024. Reverend Offier chose not to attend.

Ms Jean told the panel that the Court found that the original panel erred in three respects. As a result, the High Court Judge allowed the appeal and quashed the original panel's findings in the following respects:

First finding

The panel found charge 10 was not proved in respect of charge 9a. The Judge quashed the panel's factual finding that, by working in breach of the interim conditions of practice order, Reverend Offier had not acted dishonestly.

The Court substituted that finding with a finding that charge 10 was proved in respect of charge 9a). The Order states that Reverend Offier knew she had to be supervised when working the shift on 7 December 2019 and, in light of her knowledge and her actions in working the shift were dishonest.

Second finding

The Judge also quashed the panel finding that none of the six forms of dishonesty which are most likely to call into question whether a nurse should be allowed to remain on the register (the “Forms of Serious Dishonesty”), as set out in the NMC ’s Guidance under the heading “*Considering sanctions for serious cases*”, were applicable to this case.

That finding was substituted with a finding that two of the Forms of Serious Dishonesty in that guidance apply to the Second Respondent’s dishonesty, namely:

- she made a personal financial gain from a breach of trust; and
- her deception was premeditated, systematic or longstanding.

Third finding

In relation to impairment the Judge quashed the panel’s finding that Reverend Offier’s actions did not present a risk to patient safety or present any public protection issues.

The Judge substituted that finding with a finding that Reverend Offier’s fitness to practise is impaired on the ground of public protection. The Order records that Reverend Offier’s actions presented a risk to patient safety or public protection because she practised in deliberate disregard of regulatory conditions which had been placed on her practice.

Ms Jean submitted that the matter of sanction has been remitted to today’s panel to make a fresh decision on sanction following those substituted findings by the High Court.

Sanction

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike Reverend Offier off the register. The effect of this order is that the NMC register will show that Reverend Offier 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

Ms Jean submitted that in this case the appropriate sanction is one of a striking-off order. She submitted that in determining sanction, the panel should have regard to the NMC's published guidance.

Ms Jean submitted that any sanction should be proportionate and balance the rights Reverend Offier with the public interest. However, as set out in *Bolton v Law Society* [1994] 1 WLR 512, *'[t]he reputation of the profession is more important than the fortunes of any individual member. Membership of a profession brings many benefits, but that is a part of the price.'*

Ms Jean submitted that when the facts found proved in this case are viewed against the NMC's guidance on seriousness, she submitted that the dishonesty in this case is at the more serious end of the spectrum of dishonesty. She referred the panel to the NMC guidance *'Serious concerns which are more difficult to put right'* (FTP-3a). She submitted that Reverend Offier presented a false picture of her employment history to First Call which hid the investigation into her practice by Pulse, she dishonestly failed to disclose to First Call and she practised in breach of her interim conditions of practice order.

Ms Jean also referred the panel to *'Considering sanctions for serious cases'* (SAN-2). She said that since the matters were considered by the original panel this guidance has been

updated and now includes a further category which is most likely to call into question where a registrant should remain on the register namely cases which involve a deliberate breach of an interim order.

Ms Jean said that the High Court Judge found two specified examples of serious dishonesty which apply in this case: *'personal financial gain from a breach of trust; and premeditated, systematic or longstanding deception'*. Ms Jean submitted that the failure to state on her application form with First Call the details of Pulse and Standby agency, and the failure to state in the Qualified Staff Questionnaire that she was the subject of investigation, must have been matters that Reverend Offier had thought about when she completed those documents. These omissions by Reverend Offier were part of a plan to deceive First Call. This failure was then compounded by Reverend Offier's failure to inform First Call about the interim conditions of practice order imposed by the NMC, which culminated in the occasion when Reverend Offier worked as the sole registered nurse on shift without being supervised which was in breach of the interim order.

Ms Jean outlined the aggravating factors in this case: she submitted that Reverend Offier has shown lack of insight into failings. She referred the panel to the original decision and that that panel found that Reverend Offier demonstrated *"some remorse and limited insight. However the panel also found that Reverend Offier did not fully address all the concerns about her practice. The panel found that in her response, Reverend Offier did not demonstrate insight into the wider consequences of her failure to adhere to conditions imposed by the regulator, nor her failure to disclose relevant information to her employer about her employment history. The panel was of the view that Reverend Offier has not demonstrated a full understanding of how her actions impacted negatively on the reputation of the nursing profession."*

Ms Jean submitted that there are no documents before the panel today to indicate that Reverend Offier's insight has developed any further since then and the risk of repetition of her dishonesty remains.

Ms Jean further submitted that another aggravating factor is pattern of misconduct over a period of time. She said that Reverend Offier was repeatedly dishonest as set out in charges 6 -10 over a period of time which spanned from 27 August 2019 when she dishonestly completed the application form and qualified staff questionnaire for First Call until 19 December 2019 when her deception in not disclosing her interim conditions was fortuitously discovered by a routine PIN check.

A further aggravating factor was that it was conduct which put patients at risk of suffering harm. Ms Jean said that the interim conditions of practice order was imposed on 7 November 2019 due to concerns regarding Reverend Offier's clinical practice and record keeping. The interim order panel clearly considered that the order was necessary. By working in breach of the interim conditions of practice order, Reverend Offier placed patients in her care at risk of harm.

Ms Jean submitted that, concerning mitigating factors in this case, while there was no actual patient harm, there was a risk of such harm. Additionally, Reverend Offier acknowledged that she had breached the interim conditions of practice order.

Ms Jean then took the panel through the available sanctions. Starting with the least serious. She submitted that no further action is inappropriate where there is a finding of impairment on the grounds of public protection and public interest.

In respect of a caution order, Ms Jean submitted that it is only appropriate if the Fitness to Practise Committee has decided there is no risk to the public or to patients requiring the nurse, midwife or nursing associate's practice to be restricted, meaning the case is at the lower end of the spectrum of impaired fitness to practise, however the Fitness to Practise committee wants to mark that the behaviour was unacceptable and must not happen again. She submitted that a caution order is not sufficient sanction in this case due to the seriousness of the misconduct. It would neither protect the public nor uphold the public interest.

In respect of a conditions of practice order, conditions would not address the very serious attitudinal concerns, or uphold public confidence in the profession.

In respect of a suspension order, Ms Jean submitted that the conduct is serious enough to warrant removal from the register. She submitted that temporary removal is not sufficient in this case given the seriousness of Reverend Offier's misconduct. Ms Jean referred the panel to the checklist in the guidance SAN-3d which provides a guide as to when such an order would be appropriate. She submitted that in consideration of those factors militates against the making of a suspension order and indicates that such an order is not sufficient to meet the overarching objective of public protection.

Turning to a striking-off order, Ms Jean referred the panel to the NMC guidance SAN-3e. She submitted that honesty and integrity and fundamental tenets of the nursing profession. They are essential for maintaining public confidence in the nursing profession. The guidance states that *"The courts have supported decisions to strike off healthcare professionals where there has been lack of probity, honesty or trustworthiness, notwithstanding that in other regards there were no concerns around the professional's clinical skills or any risk of harm to the public.¹ Striking-off orders have been upheld on the basis that they have been justified for reasons of maintaining trust and confidence in the professions."*

Ms Jean submitted that blatant dishonesty was displayed by Reverend Offier and the lack of remediation are such that a striking-off order is the only sanction which will protect patients from the risks associated with Reverend Offier's further dishonesty and maintain professional standards.

Decision and reasons on sanction

Having found Reverend Offier's fitness to practise currently impaired, this 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 considered several aggravating factors. The panel noted that Reverend Offier abused her position of trust by deceiving her future employer, First Call, in multiple ways. She failed to disclose her engagement with two employment agencies, failed to mention she was under disciplinary investigation by one of them, and did not inform First Call about the interim conditions of practice order she was subject to. Moreover, she took a shift as the only registered nurse on duty despite being subject to an interim conditions of practice order requiring her to be supervised by another registered nurse, all of which led to her personal financial gain.

The panel also noted Reverend Offier's repeated dishonesty from 27 August 2019 to 19 December 2019. Her deception in not disclosing her interim conditions of practice order was discovered by a routine PIN check and it was only then when Reverend Offier made the agency aware of the specific requirements of the interim conditions of practice order.

The panel considered the reflection and the certificates presented to the panel on the last occasion, however, this panel determined that they did not address the specific regulatory concerns in this case. The panel further noted that despite having ample time to reflect since the previous hearing, Reverend Offier failed to provide additional information or demonstrate any insight that her actions would have on her patients, public, her employer, colleagues and the NMC. While Reverend Offier had shown some level of remorse, it determined that there was the no evidence of genuine remorse regarding the impact of her actions on patient safety and the wider public interest.

Furthermore, Reverend Offier's conduct put patients at risk of harm, as evidenced by her failure to comply with the regulator's instructions and working unsupervised despite the

imposed conditions. This disregard for instructions raised serious concerns about her attitude towards professional standards and patient safety.

The panel considered any mitigating features in the case very carefully and found the only mitigating feature was that Reverend Offier had acknowledged that she had breached the interim conditions of practice order. The panel did however remind itself that she only admitted this breach of the interim conditions of practice order only after it was discovered by the agency on a routine check.

The panel took into account the NMC Guidance '*Serious concerns which are more difficult to put right*' (FtP-3a):

- *“breaching the professional duty of candour to be open and honest when things go wrong, including covering up, falsifying records, obstructing, victimising or hindering a colleague or member of the public who wants to raise a concern, encouraging others not to tell the truth, or otherwise contributing to a culture which suppresses openness about the safety of care;*
- *abusing their position as a registered nurse, midwife or nursing associate or other position of power to exploit, coerce or obtain a benefit (including sexual or financial) from people receiving care, colleagues or students;*
- *deliberately using or referring to false qualifications or giving a false picture of employment history which hides clinical incidents in the past, not telling employers that their right to practise has been restricted or suspended, practising or trying to practise in breach of restrictions or suspension imposed by us;’*

The panel determined that the above factors are engaged. The panel noted that Reverend Offier provided First Call with a false picture of her employment history which hid the fact that there was an investigation into her practice by Pulse. She dishonestly failed to disclose to First Call that she was under investigation by Pulse, concealed from First Call

that she had been referred to the NMC, concealed her interim conditions of practice order from First Call, and practiced in breach of her interim conditions of practice order.

The panel took account of the NMC's guidance, namely 'Cases involving dishonesty' (SAN-2), which states:

'Honesty is of central importance to a nurse, midwife or nursing associate's practice. Therefore allegations of dishonesty will always be serious and a nurse, midwife or nursing associate who has acted dishonestly will always be at some risk of being removed from the register. However, in every case, the Fitness to Practise Committee must carefully consider the kind of dishonest conduct that has taken place. Not all dishonesty is equally serious. Generally, the forms of dishonesty which are most likely to call into question whether a nurse, midwife or nursing associate should be allowed to remain on the register will involve:

- *deliberately breaching the professional duty of candour by covering up when things have gone wrong, especially if it could cause harm to patients*
- *misuse of power*
- *vulnerable victims*
- *personal financial gain from a breach of trust*
- *direct risk to patients*
- *premeditated, systematic or longstanding deception*

Dishonest conduct will generally be less serious in cases of:

- *one-off incidents*
- *opportunistic or spontaneous conduct*
- *no direct personal gain*
- *no risk to patients*
- *incidents in private life of nurse, midwife or nursing associate'*

The panel considered that Reverend Offier's actions were premeditated, sustained and subsequently repeated on a number of occasions over a long period of time. She showed a determination in her attempts to deceive her prospective employer and her motivation was for personal financial gain. The panel determined that the conduct in this case was inherently dishonest.

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 Reverend Offier'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 Reverend Offier'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 Reverend Offier's registration would be a sufficient and appropriate response. The panel determined that due to the nature of the charges not being related to Reverend Offier's clinical practice, formulating workable and practical conditions was unfeasible. The panel therefore determined that the misconduct in this case was not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Reverend Offier'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;*
- *In cases where the only issue relates to the nurse or midwife's health, there is a risk to patient safety if they were allowed to continue to practise even with conditions; and*
- *In cases where the only issue relates to the nurse or midwife's lack of competence, there is a risk to patient safety if they were allowed to continue to practise even with conditions.*

The panel found that the above factors were not applicable in this case, and Reverend Offier's actions and dishonesty amounted to a significant departure from the standards expected of a registered nurse in more than one occasion. The panel was of the view that Reverend Offier's dishonesty and her refusal to follow her interim conditions of practice order indicated a deep-seated attitudinal problem. The panel was also concerned about the limited level of insight, despite the significant period of time that has passed since the incidents occurred. The panel therefore determined that a suspension order would not be a sufficient, appropriate or proportionate sanction in this case.

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?*

The panel considered that the concerns do raise fundamental questions regarding Reverend Offier's professionalism. Public confidence could not be maintained if she was not removed from the register. A striking-off order is the only sanction that would be sufficient to protect the public and maintain professional standards.

Reverend Offier's actions were significant departures from the standards expected of a registered nurse and are fundamentally incompatible with her remaining on the register. The panel was of the view that the findings in this case demonstrate that her actions were serious and to allow her to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of Reverend Offier's actions in bringing the profession into disrepute by adversely affecting the public's view of how a registered nurse should conduct herself, the panel has concluded that nothing short of this would be sufficient in this case.

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

Interim order

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

Submissions on interim order

Ms Jean invited the panel to impose an interim suspension order for a period of 18 months on the basis that it is necessary for the protection of the public and otherwise in the public interest. She submitted that the interim order is to provide for the gap between the making of any substantive order and closure of the statutory appeal window or any actual appeal. Should no appeal be lodged, or an appeal be resolved, that interim order would fall away.

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 for the possibility of an appeal to be made and determined.

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

That concludes this determination.

This will be confirmed to Reverend Offier in writing.