

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

**Substantive Meeting
Tuesday, 30 July 2024 – Wednesday 31 July 2024**

Virtual Meeting

Name of Registrant: Claire Louise Whitham

NMC PIN 14J0459E

Part(s) of the register: Registered Nurse – Adult Nursing
RNA – (19 January 2015)

Relevant Location: Barnsley

Type of case: Conviction

Panel members: Richard Weydert-Jacquard (Chair, registrant member)
Kamaljit Sandhu (Lay member)
Joanna Bower (Lay member)

Legal Assessor: Sean Hammond

Hearings Coordinator: Nicola Nicolaou

Facts proved: Charge 1

Fitness to practise: Impaired

Sanction: Striking-off order

Interim order: Interim suspension order (18 months)

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that that the Notice of Meeting had been sent to Mrs Whitham's registered email address by secure email on 25 June 2024.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, the time, date and the fact that this meeting was heard virtually.

In the light of all of the information available, the panel was satisfied that Mrs Whitham has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Details of charge

That you, a registered nurse:

1. On 3rd February 2023 were convicted of Theft by Employee contrary to section 1(1) Theft Act 1968 at Leeds Crown Court.

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

Background

Mrs Whitham is a Level 1 registered nurse, who entered the Nursing and Midwifery Council (NMC) register on 19 January 2015. On 6 September 2018, the NMC received a referral from Barnsley Hospital NHS Foundation Trust ('the Trust') concerning Mrs Whitham's fitness to practise. The referral was made following Mrs Whitham's arrest and charge by the police with theft of hospital property and theft and possession of controlled drugs (Class B, and C).

It is alleged that in 2016 the Trust noticed that drugs were missing, conducted an internal investigation and Mrs Whitham came under suspicion. The police conducted a search of her home on 15 March 2018 and a large quantity of drugs were found which included controlled drugs, Codeine Phosphate (Class B) and Zopiclone (Class C). The drugs were found in the front room, kitchen, bedroom, and car.

A small quantity of drugs found in the search had been issued on prescription to Mrs Whitham. One drug found in the search (Naproxen) was in the name of a former patient on the ward where Mrs Whitham worked. The rest of the drugs found in the search corresponded to batch numbers in the Trust's pharmacy records and so indicated that they had been taken from the Trust.

Following arrest, Mrs Whitham was interviewed by the police. Mrs Whitham denied that she had stolen the drugs and stated that she had inadvertently brought the drugs home in her uniform and never got around to returning them.

At the Crown Court hearing, Mrs Whitham pleaded not guilty but was found guilty of the offence of theft between 1 January 2017 and 16 March 2018. The Certificate of Conviction details that on 3 February 2023, Mrs Whitham was convicted at Leeds Crown Court of the following offence: 'Theft by employee'.

On 17 March 2023, Mrs Whitham was sentenced to 12 months' imprisonment, suspended for a period of 18 months, and 120 hours of unpaid work.

Decision and reasons on facts

The charge concerns Mrs Whitham's conviction and, having been provided with a copy of the Certificate of Conviction, the panel finds that the facts are found proved in accordance with Rule 31 (2) and (3). These state:

- '31.— (2) Where a registrant has been convicted of a criminal offence—*
- (a) a copy of the certificate of conviction, certified by a competent officer of a Court in the United Kingdom*

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

Fitness to practise

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

Representations on impairment

The NMC requires the panel to bear in mind its overarching objective to protect the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. The panel has referred to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

The NMC provided the following written submissions on impairment:

' ...

15. When determining whether Mrs Whitham's fitness to practise is impaired, the questions outlined by Dame Janet Smith in the 5th Shipman Report (as endorsed in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant [2011] EWHC 927 (Admin)) are instructive. Those questions were:

(a) has [the Registrant] in the past acted and/or is liable in the future to act as so to put a patient or patients at unwarranted risk of harm; and/or

(b) has [the Registrant] in the past brought and/or is liable in the future to bring the [nursing] profession into disrepute; and/or

(c) has [the Registrant] in the past committed a breach of one of the fundamental tenets of the [nursing] profession and/or is liable to do so in the future and/or

(d) has [the Registrant] in the past acted dishonestly and/or is liable to act dishonestly in the future.

16. It is the NMC's submission that all four limbs can be answered in the affirmative in this case. Dealing with each in turn:

Limb (a)

17. The conviction of theft concerns removal of medications intended for patient use. The conduct could result in there being insufficient medication stock for patients when required so posing a risk of harm.

Limb (b)

18. Registered professionals occupy a position of trust and must act and promote honesty at all times. Mrs Whitham's conviction has brought the profession into disrepute by a conviction for an offence of theft which was committed against their employer.

Limb (c)

19. Nurses occupy a position of trust both as a nurse and employee and they are expected to act with honesty, integrity and trustworthiness. Mrs Whitham's

conviction completely contradicts fundamental tenets to uphold the reputation of the profession at all times.

Limb (d)

20. Mrs Whitham removed a large quantity of medication belonging to their employer over a period of just over one year, taking them to their home address. They knew that they were not authorised to take these items to their home. These actions were repeated and dishonest.

21. Impairment is a forward-thinking exercise which looks at the risk the registrant's practice poses in the future. NMC guidance adopts the approach of Silber J in the case of R (on application of Cohen) v General Medical Council [2008] EWHC 581 (Admin) by asking the questions

- (i) whether the concern is easily remediable;*
- (ii) whether it has in fact been remedied; and*
- (iii) whether it is highly unlikely to be repeated.*

22. NMC's guidance entitled "Insight and strengthened practice (FTP-14)" says the NMC should first consider if the concerns can be addressed. The guidance states a small number of concerns are so serious that it may be less easy for the nurse to put right the conduct. These concerns include both convictions that led to custodial sentences and "dishonesty, particularly if it was serious and sustained over a period of time, or directly linked to the nurse, midwife or nursing associate's practice". This case falls under this category as the offending conduct is serious leading to a suspended prison sentence, involving a breach of trust and dishonest conduct.

23. We consider that the registrant has displayed no insight and no reflection. They have not addressed how their actions were wrong and maintained throughout both the criminal investigation and trial that they had forgotten to remove the medication from their apron, took them home and did not return them to the Trust. The conviction represents a breach of trust and repeated dishonest actions by the registrant over a lengthy period of time and is not easily remediable. The NMC

submits that there is likelihood of repetition in the absence of any insight or acceptance that they stole the medication.

24. As such the NMC submit that Mrs Whitham is impaired by conviction and there is a continuing risk to the public due to their lack of insight. Therefore, a finding of impairment is required for the protection of the public.

Public interest

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

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

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

27. In upholding proper professional standards and conduct and maintaining public confidence in the profession, the Fitness to Practise Committee will need to consider whether the concern is easy to put right. For example, it might be possible to address clinical errors with suitable training. A concern which has not been put right is likely to require a finding of impairment to uphold professional standards and maintain public confidence.

28. However, there are types of concerns that are so serious that, even if the professional addresses the behaviour, a finding of impairment is required either to

uphold proper professional standards and conduct or to maintain public confidence in the profession. This case falls in that category because as the sentencing remarks show, the conduct was serious enough to have crossed the threshold for a custodial sentence to be imposed, albeit that it was suspended, when the registrant was a person with no previous convictions. It is submitted that there is a public interest in a finding of impairment being made in this case to declare and uphold proper standards of conduct and behaviour.

29. Mrs Whitham's conviction and underlying breach of trust and dishonest conduct damage public confidence and severely undermines the reputation and trust the public have in the profession. We therefore consider that there is a public interest in a finding of impairment being made in this case to declare and uphold proper standards of conduct and behaviour.'

The panel accepted the advice of the legal assessor.

Decision and reasons on conviction

The panel noted the underlying facts of the conviction and considered it to be serious. It had regard to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' (the Code) in making its decision. The panel was of the view that Mrs Whitham's actions did fall significantly short of the standards expected of a registered nurse, and that Mrs Whitham's actions amounted to a breach of the Code. Specifically:

'4 Act in the best interests of people at all times

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

To achieve this, you must:

18.2 keep to appropriate guidelines when giving advice on using controlled drugs and recording the prescribing, supply, dispensing or administration of controlled drugs

18.4 take all steps to keep medicines stored securely

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

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

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

21 Uphold your position as a registered nurse, midwife or nursing associate

24 Respond to any complaints made against you professionally'

Decision and reasons on impairment

The panel next went on to decide if as a result of the conviction, Mrs Whitham's fitness to practise is currently impaired.

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

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

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

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

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

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

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

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

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

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

The panel determined that whilst there was no direct evidence of patient harm, Mrs Whitham's actions had the potential to cause harm to patients as medication, including controlled drugs, was removed from ward stock that was intended for patients. The panel

determined that this would put patients at risk of harm as it could have caused delays in patients receiving their medication in a timely manner or, in the case of the patient's stolen Naproxen, receiving this medication at all. Mrs Whitham's conviction for an offence of theft had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. The panel was therefore satisfied that Mrs Whitham's past conduct leading to the conviction engaged all four limbs of Dame Janet Smith's *test*.

The panel was mindful that impairment is a forward-looking concept and it must consider whether Mrs Whitham's fitness to practise is currently impaired by reason of her conviction. In this regard, the Dame Janet Smith's test also requires the panel to consider whether Mrs Whitham's future conduct would engage any of the four limbs.

The panel noted that Mrs Whitham has not accepted that her actions were dishonest, has not demonstrated any remorse, nor has she provided evidence to demonstrate reflection, insight, remediation, or strengthening of her practice. The panel determined that Mrs Whitham has not demonstrated any of this on the basis of both the dishonest conduct and following her conviction for theft of controlled drugs from the Trust by a judge and jury at the Crown Court.

The panel also took into account that Mrs Whitham has failed to acknowledge any risk of harm to patients, or damage to public confidence in the nursing profession. Furthermore, the panel noted that Mrs Whitham has not engaged at all with the NMC regarding these proceedings.

The panel considered the factors set out in the case of *Ronald Jack Cohen v General Medical Council* [2008] EWHC 581 (Admin) and determined that the conduct which led to the conviction is so serious that it would be extremely difficult to address. The panel had regard to the bundle of documents supplied by the NMC in determining whether Mrs Whitham had in fact addressed her conduct. It considered the NMC guidance at FTP-14a, b, and c, and the guidance on dishonesty, SAN-2, when making its decision.

The panel took into account the NMC guidance which indicates that dishonest conduct is usually harder to remediate and is considered to be more serious. It noted that the charge relates to incidents that occurred over a period of 15 months and involved potential

vulnerable patients who were in Mrs Whitham's care. The panel determined that Mrs Whitham deliberately breached the professional duty of candour by covering up when things had gone wrong, and that there was a direct risk of harm to patients as a result of this. The panel determined that Mrs Whitham misused her position of authority as a registered nurse, and considered her actions likely to be premeditated, given her longstanding and repeated deception.

The panel therefore determined that there is an indication of deep-seated attitudinal concerns, and as such, Mrs Whitham's dishonest conduct is extremely difficult to remediate.

In light of the above, the panel determined that there is a high risk of repetition of the actions found proved. The panel therefore found that all four limbs of Dame Janet Smith's test were engaged in that Mrs Whitham was liable in the future to repeat the conduct which led to the conviction.

The panel considered the question of whether Mrs Whitham was able to practise kindly, safely, and professionally. Given its finding, as set out above, the panel determined that Mrs Whitham presently was not able to do so. Consequently, Mrs Whitham's fitness to practise is impaired.

The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind that the overarching objectives of the NMC are to protect, promote and maintain the health safety and well-being of the public and patients, and to uphold/protect the wider public interest, which includes promoting and maintaining public confidence in the nursing and midwifery professions and upholding the proper professional standards for members of those professions.

The panel determined that a member of the public, with full knowledge of the case, would be very concerned if a finding of impairment was not made due to the seriousness of the concerns and given that Mrs Whitham has not demonstrated any insight, reflection, remorse, or strengthened practice in relation to the concerns. At the Crown Court trial,

Judge Mairs determined that the conduct crossed the custody threshold and “*brings shame upon the nursing profession*”. Whilst it is a matter for the panel, it concurred with the Judge’s observation in his sentencing remarks. Therefore, the panel determined that a finding of impairment is also required in the public interest.

Having regard to all of the above, the panel was satisfied that Mrs Whitham’s fitness to practise is currently impaired on both grounds of public protection, and public interest.

Sanction

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

In reaching this decision, the panel has had regard to all the evidence that has been adduced in this case and had careful regard to the Sanctions Guidance (SG) published by the NMC.

The panel accepted the advice of the legal assessor.

Representations on sanction

The panel noted that in the Notice of Meeting, dated 25 June 2024, the NMC had advised Mrs Whitham that it would seek the imposition of a striking-off order if it found Mrs Whitham’s fitness to practise currently impaired.

The NMC provided the following written submissions regarding sanction:

‘30. We consider that the following sanction is proportionate: A striking-off order.

30.1. Taking no further action or imposing a caution order would be inappropriate as they would not reflect the seriousness of the conviction or be sufficient to protect the public and the public interest in maintaining confidence in the profession and the NMC as the regulator.

30.2. A conditions of practice order would not be appropriate as this is not a case which relates to clinical concerns that could be addressed with conditions. This case involves a registrant who has stolen a large quantity of medication from their employer over a lengthy period of time and a conditions of practice order is not sufficient to protect the public or satisfy the significant public interest in this case.

30.3. A suspension order would only temporarily protect the public. The conduct is not a one-off incident, there is a pattern of dishonest behaviour which cannot be addressed by a temporary removal from the register. A suspension order would not be sufficient to protect the public or satisfy the significant public interest in this case or mark the seriousness of the conviction.

30.4. Further, the sentence of 12 months' imprisonment, suspended for a period of 18 months imposed on 17 March 2023, is ongoing. The case of Council for the Regulation of Health Care Professionals v General Dental Council & Anor [2005] EWHC 87 (Admin) should be taken into consideration. In general, the rule is that a nurse, midwife or nursing associate should not be permitted to start practising again until they have completed their sentence. It should be noted though that a long suspension order could meet the objective set out in Council for the Regulation of Health Care Professionals v General Dental Council & Anor [2005] EWHC 87 (Admin) to ensure that the public is protected during the period of the sentence imposed by the criminal court.

30.5. The only appropriate and proportionate sanction in this case is that of a striking-off order. Mrs Whitham's actions of stealing from their employer raises fundamental concerns about their professionalism and trustworthiness as a nurse. Mrs Whitham does not accept that they stole and has not shown any insight. Their conviction and underlying dishonest actions are serious and fundamentally incompatible with them remaining on the register.

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

- *SAN-2 guidance provides that dishonest conduct which is premeditated, systematic or longstanding deception calls into question whether a nurse should be allowed to remain on the register*
- *Breach of position of trust*
- *Found guilty at trial – no admissions made.*
- *Lack of insight and/or remorse.*
- *Conduct repeated over a significant period, involving a significant quantity of drugs.*

32. There are no mitigating factors.'

The panel heard and accepted the advice of the legal assessor who referred the panel to *Council for the Regulation of Health Care Professionals (CRHP) v General Dental Council (GDC) and Fleischmann* [2005] EWHC 87 (Admin) paragraph 54 in which the judge says:

'...as a general principle, where a practitioner has been convicted of a serious criminal offence or offences, he should not be permitted to resume his practice until he has satisfactorily completed his sentence...'

Decision and reasons on sanction

Having found Mrs Whitham's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel has borne in mind that any sanction imposed must be appropriate and proportionate and, although not intended to be punitive in its effect, may have such consequences. The panel had careful regard to the SG. The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Abuse of a position of trust
- Mrs Whitham was found guilty at trial in a Crown Court by a judge and jury – no admissions made
- Lack of acceptance of the dishonest nature of Mrs Whitham’s conduct
- Lack of insight, remorse, or reflection into failings
- Conduct repeated over a significant period of time, involving a significant quantity of drugs

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

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action. Additionally, the panel considered that this sanction would not be suitable to protect the public.

It then considered the imposition of a caution order but again determined that, due to the seriousness of the case, and the public protection issues identified, an order that does not restrict Mrs Whitham’s practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *‘the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.’* The panel considered that Mrs Whitham’s misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mrs Whitham’s registration would be a sufficient and appropriate response. The panel determined that there are no practical or workable conditions that could be formulated, given the nature of the charge in this case, the lack of evidence of remorse, reflection, insight, or strengthened practice, and the deep-seated attitudinal concerns identified by the panel. Even if conditions were capable of being formulated, there is no evidence that Mrs Whitham would comply given the lack of engagement with this process. The misconduct identified in this case was not something that can be addressed easily through retraining. Furthermore, the

panel concluded that the placing of conditions on Mrs Whitham's registration would not adequately address the seriousness of this case and would not protect the public.

The panel took into account the advice from the legal assessor regarding the case of *Fleischmann* and determined that conditions would be inappropriate as Mrs Whitham has not yet completed the operational part of her sentence.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that suspension order may be appropriate where the following factors are apparent:

- *A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- ...

The panel determined that the theft of medication over a 15-month period was not an isolated incident but was long-standing and likely premeditated. It determined that there was serious dishonest conduct in that Mrs Whitham breached her position of trust as a registered nurse with access to drugs, including Class B and Class C controlled drugs at the time. The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Mrs Whitham's actions is fundamentally incompatible with Mrs Whitham remaining on the register. Consequently, in this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

Finally, in looking at a striking-off order, the panel took note of the following paragraphs of the SG:

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*

- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

Mrs Whitham's actions were significant departures from the standards expected of a registered nurse. The panel took into account the lack of evidence of reflection, remorse, insight, or remediation and considered this, as well as the dishonest conduct to be fundamentally incompatible with Mrs Whitham remaining on the register. The panel was of the view that the findings in this particular case demonstrate that Mrs Whitham's actions were serious and to allow her to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

The panel noted that whilst a suspension order would protect the public for a short period of time, it would not serve to meet the public interest identified in this case. Furthermore, the panel determined that there was no evidence before it to suggest that Mrs Whitham is on a journey toward remediation, and therefore, this constituted another reason why a suspension order was not appropriate.

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

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

This will be confirmed to Mrs Whitham in writing.

Interim order

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of

this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Mrs Whitham's own interests until the striking-off sanction takes effect.

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

Representations on interim order

The panel took account of the written representations made by the NMC that:

'33. If a finding is made that Mrs Whitham's fitness to practise is impaired on a public protection basis is made and a restrictive sanction imposed, we consider an interim order in the same terms as the substantive order should be imposed on the basis that it is necessary for the protection of the public and otherwise in the public interest.

34. If a finding is made that Mrs Whitham's fitness to practise is impaired on a public interest only basis and that their conduct was fundamentally incompatible with continued registration, we consider an interim order of suspension should be imposed on the basis that it is otherwise in the public interest'

Decision and reasons on interim order

The panel was satisfied that an interim order is necessary for the protection of the public and is otherwise in the public interest. The panel had regard to the seriousness of the facts found proved and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order.

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months to allow time for any appeal period.

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

That concludes this determination.