

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

**Substantive Meeting  
Wednesday, 12 June 2024 – Thursday, 13 June 2024**

Virtual Meeting

**Name of Registrant:** Ruaidhri John Cantillon

**NMC PIN** 1011109E

**Part(s) of the register:** RNA: Adult Nurse – level 1 (11 September 2010)

**Relevant Location:** Berkshire

**Type of case:** Misconduct

**Panel members:** Bryan Hume (Chair, lay member)  
Esther Craddock (Registrant member)  
Sabrina Sheikh (Lay member)

**Legal Assessor:** Nigel Pascoe KC

**Hearings Coordinator:** Samara Baboolal

**Facts proved:** Charges 1(a),1(b),1(c),2,3,4,5,6

**Facts not proved:** None

**Fitness to practise:** Impaired

**Sanction:** **Striking-off order**

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

## Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that the Notice of Meeting had been sent to Mr Cantillon's registered email address by secure email on 9 May 2024, and if he wished to request a hearing he could request one.

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 to be heard virtually.

In the light of all of the information available, the panel was satisfied that Mr Cantillon 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. In respect of shifts you purported to have worked on one or more of the dates listed in Schedule 1:
  - a. claimed for shifts you had not worked.
  - b. increased the banding of pay for the shifts you purported to have worked.
  - c. authorised the shifts you purported to have worked by using Colleague A's log in details without her permission or knowledge **[PROVED]**
2. In one or more of the dates listed in Schedule 2 claimed for more hours than you had worked/studied. **[PROVED]**
3. Your conduct at charge 1a was dishonest in that you knew you had not worked the relevant shifts and you intended to cause other to believe you had done so. **[PROVED]**
4. Your conduct at charge 1b was dishonest in that you knew you were not entitled to payment at Band 8 for the shifts you purported to have worked and you intended others to believe you should be paid at that rate. **[PROVED]**
5. Your conduct at charge 1c was dishonest in that you knew you did not have Colleague A's permission to use her log in details to authorise shifts for yourself and

you intended others to believe that you did have her permission and/or that she had authorised your shifts herself. **[PROVED]**

6. Your conduct at charge 2 was dishonest in that you knew you were not entitled to all of the hours claimed for and you intended to cause other to believe you were. **[PROVED]**

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

### **Schedule 1**

29 October 2022

05 November 2022

06 November 2022

18 November 2022

26 November 2022

24 December 2022

29 December 2022

10 January 2023

11 January 2023

### **Schedule 2**

06 September 2022

20 October 2022

## **Background**

At the time of the incidents Mr Cantillon was employed at Royal Berkshire Foundation Trust as Matron for the Intensive Care Unit. In February 2023, Mr Cantillon's line manager, Witness 1, discovered that he had been claiming NHSP Shifts that he had not worked. Mr Cantillon was referred to the Nursing and Midwifery Council ('NMC') on 30 March 2023 by the Associate Chief Nurse at Royal Berkshire NHS Foundation Trust ('Trust').

Mr Cantillon claimed a total of nine shifts that he had not worked and increased the banding of his pay for the shifts he purported to have worked. Mr Cantillon claimed for more hours than he had /studied on two occasions. Mr Cantillon authorised the shifts he purported to have worked by using Colleague A's log in details without her permission or knowledge.

The two shifts on 5 November and 6 November 2022 were disputed locally by Mr Cantillon. Mr Cantillon maintained that he was on site, spending the majority of his shift on [the] Ward. There is no evidence which suggest Mr Cantillon was on [the] Ward on these dates. There is no physical evidence of his presence, for example in the form of records he made, or any colleagues identified who recalled his presence.

Mr Cantillon increased the standard 7.5 hours a day of study on two occasions. On 6 September 2022 and 20 October 2022, he increased the study hours to 9.5 hours a day.

### **Decision and reasons on facts**

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

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

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the documentary evidence provided by the NMC and had regard to the written statements of the following witnesses on behalf of the NMC:

- Witness 1: Director of nursing for Urgent Care and line manager of Mr Cantillon

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

### **Charge 1)**

“That you, a registered nurse, in respect of shifts you purported to have worked on one or more of the dates listed in Schedule 1:

- a. claimed for shifts you had not worked
- b. increased the banding of pay for the shifts you purported to have worked.

- c. authorised the shifts you purported to have worked by using Colleague A's log in details without her permission or knowledge."

**The panel found charge 1(a),(b) and (c) proved.**

In reaching this decision, the panel took into account the witness statement from Witness 1, and the email from Colleague A. The email from Colleague A, dated 2 February 2023 says:

*'Due to [Mr Cantillon] working from home this week myself and [Ms 1] reviewed his off duty in line with the calendar to work out cover should he not be back on site. Whilst reviewing I observed that [Mr Cantillon] is down as working nhsp shifts as follows:*

- *November 5th 2022, Early (11.5 hours total)*
- *November 6th 2022, Late (11.5 hours total)*
- *November 18th 2022, Late (10.5 hours total)*
- *November 26th 2022, Early (11.5 hours total)*
- *December 24th 2022, Early (11.5 hours total)*
- *December 29th 2022, Late (11.5 hours total)*
- *January 10th 2023, Early (11.5 hours total)*
- *January 11th 2023, Long Day (11.5 hours total) Total nhsp time = 91 hours*

*All of these nhsp shifts are listed as on [the] Ward and have now pulled through onto [the Ward]'s optimize retrospectively.*

*When reviewing the shifts on nhsp I observed that these shifts were authorised by my login. I did not authorise these shifts and have not given permission for my account to be used to do so.'*

The panel was of the view that the Trust's investigation noted that the shifts in Schedule 1 were identified, and that the evidence is very clear that Mr Cantillon did not work on the days in question in the wards. The panel noted that the summary of the investigation provided an absence of Mr Cantillon's swipe card logins which support this. The panel also took into account that the Trust interviewed people on the ward to ascertain whether Mr Cantillon was seen or not, and no one recalled seeing him.

The panel further noted that Mr Cantillon made his own admissions, which is contained in the investigation report. This states:

*'In his statement and interview [Mr Cantillon] admitted using [Colleague A]'s password when altering and authorising NHSP shifts for himself. [Colleague A] was unaware that [Mr Cantillon] was doing this. [Mr Cantillon] admitted that he did this without [Colleague A]'s knowledge or consent.*

*[Mr Cantillon] said that he had asked [Colleague A] to log him into NHSP on his laptop so that he could do his normal work of checking shifts and ward cover. This password was then saved on his laptop. [Mr Cantillon] said he did not save this deliberately. He said he used [Colleague A]'s password so that no-one could see he was trying to take his time back.'*

The panel took into account that the Trust investigation report included print-outs from the Optimize system which showed that Mr Cantillon increased his band either from Band 2, and 5 to up to 8.

The panel also took into account Mr Cantillon's reflective piece which contained some admissions. The reflection says:

*'During my weekly 1:1 with my line manager, [Witness 1], on Friday 10 February 2023, [she] raised with me that there had been some unusual activity on my optimize (sic) account and that it looked as though some of my shifts had been converted to NHSP hours worked on [the] ward. Further, [she] said that it looked like these hours had been authorised by one of my colleagues but that I had added these hours and authorised the shifts myself using my colleague's login details. [Witness 1] asked me if this was the case- I said yes. We then discussed this for a short while and [Witness 1] suggested I take the rest of the day off and that we would speak again on Monday 13 February, which we did.'*

## **Charge 2)**

"That you, a registered nurse, in one or more of the dates listed in Schedule 2 claimed for more hours than you had worked/studied."

**This charge is found proved.**

In reaching this decision, the panel took into account Mr Cantillon's own admissions in the report to the investigator and the thorough investigation conducted by the Trust. The panel noted that Mr Cantillon had provided an explanation to the fraudulent hours; that he was making up for hours owed. However, the panel noted that this was never confirmed and had not been brought up by Mr Cantillon to his manager. This explanation is contained in Mr Cantillon's reflective piece, which says:

*'[PRIVATE]. Also, on reflection I did not take annual leave in a timely manner.'*

**Charge 3)**

"That your conduct at charge 1a was dishonest in that you knew you had not worked the relevant shifts and you intended to cause other to believe you had done so."

**This charge is found proved.**

In reaching its decision, the panel took into account that the incidents were not isolated, and that they take place over a protracted period of time on multiple occasions. It noted that Witness 1 raised the issue with Mr Cantillon, and he was initially shocked. However, the panel was of the view that Mr Cantillon as a senior nurse was aware that what he was doing was wrong. It determined that a reasonable and well-informed member of the public fully apprised of this evidence would take the view that a nurse engaging in such conduct was deliberately dishonest.

The panel also took into account that Mr Cantillon would have also been responsible for signing time sheets off for other nurses to work bank shifts and over time.

**Charge 4)**

"That your conduct at charge 1b was dishonest in that you knew you were not entitled to payment at Band 8 for the shifts you purported to have worked and you intended others to believe you should be paid at that rate."

**This charge is found proved.**

In reaching its decision, the panel took into account that, similarly to its findings in Charge 3, the incidents were not isolated, and that they take place over a protracted period of time on multiple occasions. It noted that Witness 1 raised the issue with Mr Cantillon, and he was initially shocked. However, the panel was of the view that Mr Cantillon as a senior nurse was aware that what he was doing was wrong. It determined that a reasonable and well-informed member of the public fully appraised of this evidence would take the view that a nurse engaging in such conduct was deliberately dishonest.

The panel took into account the witness statement of Witness 1 which said:

*'On 10 February 2021 we had a one-to-one scheduled where I raised the anomalies, we had noted on the system re Optimize and his name being on [the Ward] Optimize. He said very little and was shocked and admitted to claiming NHSP shifts that he shouldn't.'*

In particular, the panel determined that Mr Cantillon's deliberate changing of the banding that was required for the day was dishonest. It also took into consideration that by raising the banding to band 8, Mr Cantillon decreased the budget of the ward and consequently, this could have impacted patients' care by depriving the NHS of funds.

**Charge 5)**

"That your conduct at charge 1c was dishonest in that you knew you did not have Colleague A's permission to use her log in details to authorise shifts for yourself and you intended others to believe that you did have her permission and/or that she had authorised your shifts herself."

**This charge is found proved.**

In reaching its decision, the panel took into account that your actions were deliberate and that there was intention to be dishonest. It noted that you used your colleague's login details in entering the fraudulent time sheets, and consequently, made her complicit in your fraud. The panel took the view that this was a premeditated act, and that any member of the public



would view this act as a dishonest one. Mr Cantillon saved his colleague's login details on his laptop and consequently used it to authorise the NHS shifts for himself.

### **Charge 6)**

“That your conduct at charge 2 was dishonest in that you knew you were not entitled to all of the hours claimed for and you intended to cause other to believe you were.”

### **This charge is found proved.**

In reaching its decision, the panel took into account that Mr Cantillon would have worked a standard 7.5 hour shift. It noted that Mr Cantillon claimed 9.5 hours instead, and then when challenged, he said that he returned to work on 6 September. However, when the Trust checked the swipe card records and asked people on the ward if they had seen Mr Cantillon, it found that this was not true. Mr Cantillon then made his own admission that he did not work those hours.

The panel took into account the witness statement of Witness 1, which said:

*‘Study days are a standard 7.5 hours for staff on two occasions [Mr Cantillon] had increased the hours to 9.5. The first was on 6 September 2022 this was a*

*Matron’s study day held at the [hotel]. [Mr Cantillon] said that he had returned to work afterwards but did not and agreed he had not worked the 9.5 hours claimed. On this date he had claimed 2 extra hours which he admitted that he did not work.*

*The second day was 20 October 2022 a Matron’s away day [Mr Cantillon] said that he had worked on site before but not after as team went for a drink together. He agreed that he did not work the 9.5 hours claimed. On this date he had claimed 2 extra hours which he admitted he did not work.’*

### **Fitness to practise**

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Mr Cantillon’s fitness to practise is currently impaired. There is no statutory definition of fitness to

practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

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

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

### **Representations on misconduct and impairment**

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

The NMC invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of 'The NMC code of professional conduct: standards for conduct, performance and ethics' ("the Code") in making its decision.

The NMC identified the specific, relevant standards where Mr Cantillon's actions amounted to misconduct.

*'The comments of Lord Clyde in Roylance v General Medical Council [1999] UKPC 16 may provide some assistance when seeking to define misconduct:*

*'[331B-E] Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rule and standards ordinarily required to be followed by a [nurse] practitioner in the particular circumstances.*

As may the comments of Jackson J in *Calheam v GMC* [2007] EWHC 2606 (Admin) and Collins J in *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), respectively.

*'[Misconduct] connotes a serious breach which indicates that the doctor's (nurse's) fitness to practice is impaired'.*

And

*'The adjective "serious" must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioner'*

*Where the acts or omissions of a registered nurse are in question, what would be proper in the circumstances (per Roylance) can be determined by having reference to the Nursing and Midwifery Council's Code of Conduct.*

*We consider the following provision(s) of the Code have been breached in this case:*

**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.*

*20.8 act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to.*

**21 Uphold your position as a registrant nurse, midwife or nursing associate.**

*21.3 act with honesty and integrity in any financial dealings you have with everyone you have a professional relationship with.*

*The NMC considers that the misconduct is serious because:*

a) *Mr Cantillon abused his position of trust. Mr Cantillon was trusted to submit accurate time sheets and have them authorised in the correct way. He used his knowledge of the system to manipulate it for his own personal financial gain.*

b) *Further, Mr Cantillon abused his knowledge of his colleague's log in details making her an unwitting accomplice to his fraud.*

c) *Finally, Mr Cantillon's actions show considerable planning and determination to perpetuate the fraud.*

*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 invited the panel to find Mr Cantillon's fitness to practise impaired and made the following written submissions:*

*The NMC's guidance on impairment at DMA-1 explains that impairment is not defined in legislation but is a matter for the Fitness to Practise Committee to decide. 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?"*

- a) *If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired.*
- b) *Answering this question involves a consideration of both the nature of the concern and the public interest. In addition to the following submissions the panel is invited to consider carefully the NMC's guidance on impairment.*
- c) *When determining whether Mr Cantillon's fitness to practice 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:*

1. has [Mr Cantillon] 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
2. has [Mr Cantillon] in the past brought and/or is liable in the future to bring the [nursing] profession into disrepute; and/or
3. has [Mr Cantillon] 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
4. has [Mr Cantillon] in the past acted dishonestly and/or is liable to act dishonestly in the future.

*It is the submission of the NMC that numbers 2, 3 and 4 can be answered in the affirmative:*

*14.1 In respect of question 2, Mr Cantillon acted dishonestly for a sustained period, intending to commit fraud for his own financial gain whilst carrying out his role as a registered nurse. This conduct brings the nursing profession into disrepute and calls into question the trust in the profession.*

*14.2 In respect of question 3, Mr Cantillon's actions clearly breached a fundamental tenant of the nursing profession by failing to act with honesty and integrity when committing the acts. With no demonstration of steps to address the conduct, the risk of repetition remains.*

*14.3 In respect of question 4 Mr Cantillon's actions were dishonest. He had the opportunity to speak of his dishonesty during the internal investigation and failed to mention the additional pay he had awarded for study leave he had not completed. With no demonstration of insight or strengthened practise, the risk of repetition remains.*

*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 whether the concern is easily remediable, whether it has in fact been remedied and whether it is highly unlikely to be repeated.*

*14. The NMC's guidance gives the example of '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' as a type of misconduct which will be particularly difficult to remediate.*

*15. We consider Mr Cantillon's actions were dishonest and are, in line with the guidance set out above, not therefore easily remediable. Mr Cantillon has displayed only limited insight (which would be required for remediation) and, in the absence of substantial or full insight, the risk of repetition is high.*

*16. The NMC guidance can the concern be addressed? (FTP-14a) states that 'dishonesty, particularly if it was serious and sustained over a period of time, or is directly linked to the nurse, midwife or nursing associate's professional practice' is an example of conduct which may not be possible to address.*

*17. Considering whether the concern has been addressed under guidance (FTP- 14b) there has been no engagement from Mr Cantillon since the referral. Limited insight was given at local level, but no insight shown since referral. There have been no sufficient steps taken to address the concern and no material provided to the NMC for consideration. In light of this, the NMC cannot say the concern has been addressed at all.*

*18. As per the guidance at FTP -14c is it highly unlikely that the conduct will be repeated? there is risk that Mr Cantillon's actions will be repeated as he has displayed only limited insight at local level and there is no evidence of steps taken to address the concern. In the absence of substantial or full insight, engagement from Mr Cantillon, the risk of repetition is high*

*Public interest*

19. 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.”*

20. *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.*

21. *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 hasn’t been put right is likely to require a finding of impairment to uphold professional standards and maintain public confidence.*

22. *We consider there is a public interest in a finding of impairment being made in this case to declare and uphold proper standards of conduct and behavior. Mr Cantillon’s conduct engages the public interest threshold because he has breached a fundamental principle of the profession, to act with honesty and*

*integrity. As such, the need to protect the wider public interest calls for a finding of impairment to uphold the standards of the profession, maintain trust and confidence in the profession and the NMC as its regulator. Without a finding of impairment public confidence in the profession and the regulator would be seriously undermined.*

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), and *General Medical Council v Meadow* [2007] QB 462 (Admin).

### **Decision and reasons on misconduct**

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

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

**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.*

20.8 *act as a role model of professional behaviour for students and newly qualified nurses, midwives and nursing associates to aspire to.*

**21 Uphold your position as a registrant nurse, midwife or nursing associate.**

21.3 *act with honesty and integrity in any financial dealings you have with everyone you have a professional relationship with.*



The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel was of the view that these charges are serious and amount to an abuse of power and position of trust for financial gain. The panel determined that dishonesty is very serious.

The panel found that Mr Cantillon's actions 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, Mr Cantillon'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*
- d) has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

The panel finds that patients were inadvertently put at risk as a result of Mr Cantillon's fraudulent actions which necessarily deprived the Trust of funds. Mr Cantillon's misconduct had breached the fundamental tenets of the nursing profession and therefore 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 also noted that there has been minimal engagement from Mr Cantillon since the referral, and that there has been a lack of insight. There have been some admissions during the Trust's investigations, and some reflection. However, the panel was of the view that this reflection was limited and was not fully insightful. It found that there was no indication that Mr Cantillon had meaningfully engaged with the NMC since his referral, and consequently there is no evidence of strengthening of practice. It also noted that it is very difficult to remediate matters relating to dishonesty and attitudinal concerns. The panel determined that there is therefore a risk of repetition. The panel also took into account that Mr Cantillon's actions breached fundamental tenets of the nursing profession.

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

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

The panel determined that a finding of impairment on public interest grounds is required, as a reasonable and well-informed member of the public would be very concerned if a nurse who acted dishonestly were allowed to practise without restriction.

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

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

## **Sanction**

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike Mr Cantillon off the register. The effect of this order is that the NMC register will show that Mr Cantillon 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 9 May 2024, the NMC had advised Mr Cantillon that it would seek the imposition of a striking-off order if it found Mr Cantillon's fitness to practise currently impaired. The panel had regard to the NMC's written submissions which were as follows:

*23. 'Given the nature and seriousness of the misconduct in this case as set out above. We consider the appropriate and proportionate sanction in this case to be a striking off order.'*

*24. The aggravating features in this case include:*

- *A pattern of misconduct over a period of time involving multiple actions of dishonesty.*
- *Financial loss to the trust.*
- *Committed for personal gain.*
- *No reparation.*

*25. The mitigating features in this case include:*

- *Some insight at local level early on and made some admissions.*

*26. With regard to our sanction's guidance considering sanctions for serious cases reference SAN-2 and in particular cases involving*

*dishonesty, the following aspects have led us to this conclusion, starting with the least restrictive sanction:*

***Taking no further action:*** NMC guidance on taking no further action ('SAN-3a') indicates that a panel has a discretion to take no further action after a finding of impairment but will only use that discretion rarely. This case relates to conduct undermining the public's trust in nurses, midwives or nursing associates and breaching one of the fundamental tenets of the profession. It would be very rare for a Fitness to Practise committee to take no further action. This is not a case appropriate for no further action to be taken.

***Caution Order:*** NMC guidance on caution orders ('SAN-3b') indicates that a caution order is only appropriate if there's no risk to the public or patients, and the case is at the lower end of the spectrum of impaired fitness to practice. This sanction would be insufficient to deal with the seriousness of the case and is inadequate in maintaining standards and confidence within the profession. The dishonesty itself is far too serious to warrant such an order and imposing such an order would send the wrong message to those in the profession and to the public.

***Conditions of Practice Order:*** NMC guidance on conditions of practice orders ('SAN- 3c') outlines that the key consideration when looking at whether conditions of practice may be appropriate is when they achieve their aim of public protection, in a way that's fair to the nurse, midwife or nursing associate, they should be relevant, proportionate, workable, and measurable. The conditions should relate to and address the regulatory concerns. Within our guidance Considering sanctions for serious cases (SAN-2) 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: personal financial gain from a breach of trust, premeditated, systematic or longstanding deception and misuse of power, all of which are applicable in this case.

*The concerns raised in this case do not relate to Mr Cantillon's clinical*

*practise and if conditions are placed, they must achieve their aim of public protection. The concerns in this case relate to Mr Cantillon's attitudes that were sustained over a period of three months. The guidance states that conditions may be appropriate when there is no evidence of harmful deep-seated personality or attitudinal problems. Therefore, the NMC argue this order is not appropriate, proportionate, workable or measurable in this case.*

**Suspension Order:** *NMC guidance on suspension orders ('SAN-3d') outlines that a suspension order may be appropriate in cases "where the misconduct isn't fundamentally incompatible with the nurse, midwife or nursing associate continuing to be a registered professional, and [the NMC's] overarching objective may be satisfied by a less severe outcome than permanent removal from the register.*

*The concerns are extremely serious. The dishonesty cannot be said to be a single instance of misconduct. In considering the issue of dishonesty, this cannot be said to be at the lower end of the scale. Because it is linked to Mr Cantillon role directly, it is a breach and abuse of his position. Mr Cantillon made admissions and accepted responsibility for majority of the conduct. There is evidence of harmful deep-seated personality or attitudinal problems. Having regard to all of these factors the panel may agree that temporary removal from the register would be insufficient to protect patients, public confidence and professional standards.*

**Strike Off:** *NMC guidance on striking-off orders ('SAN-3e') outlines that, before imposing a striking off order, a FtPC should consider among other matters:*

- a. Whether the regulatory concerns about the nurse raise fundamental questions about their professionalism;*
- b. Whether public confidence in the profession can be maintained if the nurse is not removed from the register; and*
- c. Whether striking-off is the only sanction that would be sufficient to protect patients, members of the public, or maintain professional standards.*

*Mr Cantillon does raise fundamental questions about his professionalism. Given the nature and seriousness of the misconduct in this case as set out above. The NMC therefore submits that a striking-off order is the only appropriate and proportionate sanction in the circumstances, and the NMC therefore asks the FtPC to consider imposing a striking-off order in this case.'*

## **Decision and reasons on sanction**

Having found Mr Cantillon'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:

- Mr Cantillon has disengaged with the NMC;
- He has expressed that he no longer wishes to practise as a nurse;
- The concerns relate to attitudinal concerns and dishonesty;
- The concerns relate to an abuse of a position of trust;
- There is a lack of insight into failings; and
- Mr Cantillon's conduct put patients at risk of suffering harm.

The panel also took into account the following mitigating features:

- [PRIVATE]

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 Mr Cantillon's practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mr Cantillon's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mr Cantillon's registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The misconduct identified in this case was not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Mr Cantillon'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:

- *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; 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 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 Mr Cantillon's actions is fundamentally incompatible with Mr Cantillon remaining on the register.

In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

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

- *Do the regulatory concerns about the nurse or midwife raise fundamental questions about their professionalism?*
- *Can public confidence in nurses and midwives be maintained if the nurse or midwife is not removed from the register?*
- *Is striking-off the only sanction which will be sufficient to protect patients, members of the public, or maintain professional standards?*

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

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

The panel considered that this order was necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the

profession a clear message about the standard of behaviour required of a registered nurse.

This will be confirmed to Mr Cantillon in writing.

### **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 suspension 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 suspension order. The panel therefore imposed an interim suspension order for a period of 18 months.

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

That concludes this determination.