

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

**Substantive Meeting
Thursday, 23 May 2024 – Friday, 24 May 2024**

Virtual Meeting

Name of Registrant: Francesca Kayleigh Del-Greco

NMC PIN 13L0583E

Part(s) of the register: Registered Nurse – Sub part 1
Adult Nursing – 11 September 2014

Relevant Location: Blackpool

Type of case: Misconduct

Panel members: Des McMorrow (Chair, Registrant member)
Laura Wallbank (Registrant member)
Rachel Barber (Lay member)

Legal Assessor: Alain Gogarty

Hearings Coordinator: Stanley Udealor

Facts proved: Charges 1a, 1b, 2 and 3

Facts not proved: N/A

Fitness to practise: Impaired

Sanction: **Striking-off order**

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

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that the Notice of Meeting had been sent to Miss Del-Greco's registered email address by secure email on 17 April 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, and that the meeting was to be held virtually. It informed Miss Del-Greco that she had until 20 May 2024 to supply any additional evidence or information and that a meeting would be held on or after 23 May 2024.

In the light of all of the information available, the panel was satisfied that Miss Del-Greco 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 between October 2021 and February 2022:
 - a) claimed payment for 77 shifts you had not worked.
 - b) signed your timesheets yourself in the space provided for an authorised officer's signature.
2. Your conduct at charge 1a was dishonest in that you knew you had not worked the relevant shifts and you intended to cause others to believe you had done so.

3. Your conduct at charge 1b was dishonest in that you knew you did not have permission from an authorised officer to sign the timesheets and you intended others to believe that an authorised person had signed the timesheets themselves.

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

Background

The charges arose whilst Miss Del-Greco was employed as an agency nurse by Altrix Nursing Agency ('the Agency') at Blackpool Teaching Hospitals NHS Foundation Trust ('the Trust'). Miss Del-Greco was referred to the Nursing and Midwifery Council (NMC) by the Agency.

It was alleged that Ms Del-Greco provided the Agency with seventy-seven falsified timesheets between October 2021 and February 2022, claiming to have worked hours that she had not worked. It was also alleged that the timesheets submitted by Miss Del-Greco were falsely purported to be signed by an authorising officer. This resulted in Ms Del-Greco being overpaid by £26,154.48, however, there was no financial loss for the Trust as they had not paid the Agency at that time. As an agency nurse, Ms Del-Greco was paid by the Agency. Such payments were usually paid within a week of the shifts worked and the Agency would then invoice the Trust, but it could be quite sometime later, before the Trust would pay the Agency. Therefore, Miss Del-Greco was able to submit numerous timesheets before any suspicion was raised.

The Agency discovered discrepancies within the time sheets submitted by Miss Del-Greco as they related to shifts that were not on the Agency's system and due to management responding stating they did not recognise the authorising signature on the timesheets. The Agency contacted Miss Del-Greco on 2 March 2022 as she had made enquiries as to why she was unable to book further shifts. During the telephone conversation, Miss Del-Greco had the opportunity to make admissions to her conduct but instead she gave false explanations as to her innocence.

An internal investigation was conducted by Witness 1, a Local Counter Fraud Specialist at the Trust. During the internal investigation, Miss Del-Greco admitted the regulatory concerns and expressed remorse during the interview under caution on 12 June 2023. Miss Del-Greco cited personal issues as a reason for her conduct. Miss Del-Greco claimed she had spent all the money [PRIVATE] but agreed to repay the Agency £200 every month. She admitted having missed several payments as she claimed she could not afford it. She added she was ashamed of herself and that what she had done was wrong.

At the conclusion of the internal investigation, Witness 1 concluded that Miss Del-Greco had committed fraud by false representation but, because the Trust had not paid the Agency the money, the matter was not referred to the Crown Prosecution Service.

Decision and reasons on facts

In reaching its decisions on the facts, the panel took into account all the documentary evidence in this case together with the written 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.

The panel had regard to the written statement of the following witness on behalf of the NMC:

- Witness 1: Local Counter Fraud Specialist at the Trust.

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

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

Charge 1

1. In respect of shifts you purported to have worked between October 2021 and February 2022:
 - a) claimed payment for 77 shifts you had not worked.
 - b) signed your timesheets yourself in the space provided for an authorised officer's signature.

These charges are found proved.

In reaching this decision, the panel took account of the witness statement of Witness 1 dated 8 August 2023 in which he stated:

'I received information related to the registrant on 11 March 2022 from the Trust's temporary staffing team. It was alleged that she had submitted timesheets for shifts not worked. It had been discovered that several timesheets had a signature that was not from the ward manager. It raised concerns that there might be other anomalous timesheets. The allegation was corroborated by her employer, from Altrix...'

'The timesheets submitted by the registrant had illegible authorising officer signatures. There was no discernible name on the signature. Some names were unknown by staff. Therefore, I had to look for further evidence that she had attended these shifts. I checked for sign in sheets, bench (bank) slips, the drugs control log and patients notes. I did not find any evidence that she had worked any of these 78 shifts. I only found evidence for 2 shifts. One had been worked at the beginning of November 2021 and the other one was at the beginning of February 2022. The second shift was completed after she had received a call from Altrix agency who had raised concerns about her timesheets.... The registrant (Miss Del-Greco) was paid £26,154.48 by Altrix for these shifts.'

The panel considered the statement of phone conversation between the Agency and Miss Del-Greco dated 2 March 2022 in which she denied the allegations and sought to provide explanations for the discrepancies when the Agency queried the timesheets she had submitted.

The panel took into account the transcript of Miss Del-Greco's interview made under caution by Witness 1 dated 12 June 2023. The panel noted that a risk assessment was conducted by Witness 1 before the interview commenced in which the purpose of the interview, Miss Del-Greco's right to representation and the right to remain silent at the interview, was explained to her. Miss Del-Greco confirmed that she understood the purpose of the interview and she chose to answer questions and attend the interview without a representative.

The panel further noted that during that interview, Miss Del-Greco admitted that between October 2021 and February 2022, she had submitted fraudulent timesheets for shifts she had not worked and that she had signed the timesheets herself in the space provided for an authorised officer's signature. The panel also took into account that the following breakdown of the payments/costs claimed for the shifts by Miss Del-Greco, was presented to her during the interview and she admitted to them. The breakdown as made by Witness 1 was:

'So to confirm, the monies, I've worked out financially here the instances and the monies. It works out at; monies lost to Altrix, 73 (sic) instances of allegedly fraudulent timesheets totalling £26,154.48 an average of £358.23 per shift. Monies that would have been lost to BTH if the normal process would have continued is, £31,577.31. That's 77 instances, works out as an average of £410.00 per shift. And the money that have been lost to BTH amounted to £1,550.42...'

The panel also had sight of the timesheets audit and the investigation report dated 7 July 2023, made by Witness 1, which supported the evidence that Miss Del-Greco had claimed payments for seventy-seven shifts she had not worked and that she had signed the timesheets herself in the space provided for an authorised officer's signature.

Based on the evidence before it, the panel was satisfied that it was more likely than not that between October 2021 and February 2022, Miss Del-Greco had claimed payments for seventy-seven shifts she had not worked and that she had signed the timesheets herself in the space provided for an authorised officer's signature. The panel therefore found charges 1a and 1b proved.

Charge 2

2. Your conduct at charge 1a was dishonest in that you knew you had not worked the relevant shifts and you intended to cause others to believe you had done so.

This charge is found proved.

Having found charge 1a proved, the panel went on to consider whether Miss Del-Greco's conduct in charge 1a was dishonest. In considering whether Miss Del-Greco's actions were dishonest, the panel had regard to the NMC Guidance on Making decisions on dishonesty charges, (DMA-7). It also had regard to the test laid down in the case of *Ivey v Genting Casinos UK Limited* [2017] UKSC 67 which provides:

- what was the defendant's actual state of knowledge or belief as to the facts; and
- was his conduct dishonest by the standards of ordinary decent people?

In applying the first limb of the test to this case, the panel noted that Miss Del-Greco admitted during her interview made under caution by Witness 1 dated 12 June 2023, that between October 2021 and February 2022, she had submitted fraudulent timesheets for seventy-seven shifts she had not worked. Miss Del-Greco also accepted that she knew her conduct was wrong [PRIVATE]. The panel further noted that in the statement of phone conversation between the Agency and Miss Del-Greco dated 2 March 2022, she sought to cover up her conduct by providing false explanations for the discrepancies when the Agency queried the timesheets she had submitted. On the basis of all the evidence before it, the panel was satisfied that Miss Del-Greco knew that she had not worked the relevant shifts and she intended to cause others to believe she had done so.

In applying the second limb of the test to this case, the panel was of the view that ordinary decent people would regard the submission of timesheets for shifts that had not been worked, as dishonest. Therefore, the panel was satisfied that Miss Del-Greco's actions in charge 1a would be considered dishonest by ordinary decent people.

Accordingly, the panel determined that Miss Del-Greco's conduct in charge 1a was dishonest, therefore, charge 2 is found proved.

Charge 3

3. Your conduct at charge 1b was dishonest in that you knew you did not have permission from an authorised officer to sign the timesheets and you intended others to believe that an authorised person had signed the timesheets themselves.

This charge is found proved.

Having found charge 1b proved, the panel went on to consider whether Miss Del-Greco's conduct in charge 1b was dishonest. In considering whether Miss Del-Greco's actions were dishonest, the panel had regard to the NMC Guidance on Making decisions on dishonesty charges, (DMA-7). It also had regard to the test laid down in the case of *Ivey v Genting Casinos UK Limited* [2017] UKSC 67 which provides:

- what was the defendant's actual state of knowledge or belief as to the facts; and
- was his conduct dishonest by the standards of ordinary decent people?

In applying the first limb of the test to this case, the panel noted that Miss Del-Greco admitted during her interview made under caution by Witness 1 dated 12 June 2023, that between October 2021 and February 2022, that she had signed the timesheets herself in the space provided for an authorised officer's signature without permission from an authorised officer. Miss Del-Greco also accepted that she knew her conduct was wrong [PRIVATE]. The panel further noted that in the statement of phone conversation between

the Agency and Miss Del-Greco dated 2 March 2022, she sought to cover up her conduct by providing false explanations for the discrepancies when the Agency queried the timesheets she had submitted. On the basis of all the evidence before it, the panel was satisfied that Miss Del-Greco knew that she did not have permission from an authorised officer to sign the timesheets and she intended others to believe that an authorised person had signed the timesheets themselves.

In applying the second limb of the test to this case, the panel was of the view that ordinary decent people would consider that Miss Del-Greco signing timesheets without permission from an authorised officer, intending others to believe that an authorised officer had signed the timesheets themselves, was dishonest. Therefore, the panel was satisfied that Miss Del-Greco's actions in charge 1b would be considered dishonest by ordinary decent people.

Accordingly, the panel determined that Miss Del-Greco's conduct in charge 1b was dishonest, therefore, charge 3 is found 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 Miss Del-Greco'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 without restrictions.

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, Miss Del-Greco's fitness to practise is currently impaired as a result of that misconduct.

Representations on misconduct

The panel took into account the NMC's written representations on misconduct, which stated:

'Misconduct

9. *'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'.

10. *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 practise 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'.

11. *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.*
12. *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.

20.2 act with honesty and integrity at all times,

20.4 keep to the laws of the country in which you are practicing,

20.8 act as a role model of professional behaviour for students and newly qualified nurse, 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...

13. *We consider the misconduct serious because:*
- a. *Ms Del-Greco's actions were dishonest from the outset.*
 - b. *Ms Del-Greco abused her position of trust. Ms Del-Greco was trusted to submit accurate time sheets and have them authorised in the correct way. She used her knowledge of the system to manipulate it for her own personal financial gain. Using the same method 77 times shows considerable planning and determination to perpetuate the fraud.*
 - c. *Ms Del-Greco knew she was booking shifts she would never work and for which she would receive payment.*
 - d. *Ms Del Greco engaged in a premeditated, systematic, and longstanding deception. Her dishonesty was repeated and sustained.*
 - e. *Ms Del-Greco's actions only became known as a result of an internal audit.'*

Representations on impairment

In its written representations on impairment, the NMC submitted that:

'Impairment

14. *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?"

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

16. *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.*

17. *When determining whether Ms Del-Greco'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:*

1. *has [Ms Del-Greco] 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 [Ms Del-Greco] in the past brought and/or is liable in the future to bring the [nursing] profession into disrepute; and/or*
3. *has [Ms Del-Greco] 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 [Ms Del-Greco] in the past acted dishonestly and/or is liable to act dishonestly in the future.*
18. *It is the submission of the NMC that 1, 2, 3 and 4 can be answered in the affirmative in this case.*
19. *In respect of question 1, Ms Del-Greco booked shifts which she did not work. As a result, the shifts were left understaffed and therefore placed patients on that ward at risk of harm.*
20. *In respect of question 2, Ms Del-Greco acted dishonestly for a sustained period, intending to commit fraud for her own financial gain whilst carrying out her role as a registered nurse. This conduct brings the nursing profession into disrepute and calls into question the trust in the profession. Although remorse was shown by Ms Del-Greco, with no demonstration of steps to address the conduct, the risk of repetition remains.*
21. *In respect of question 3, Ms Del-Greco's actions clearly breached a fundamental tenant of the nursing profession by failing to act with honesty and integrity when committing the acts. Although remorse was shown by Ms Del-Greco, with no demonstration of steps to address the conduct, the risk of repetition remains.*
22. *In respect of question 4, Ms Del-Greco's actions were dishonest and although remorse was shown by Ms Del-Greco, with no demonstration of steps to address the conduct, the risk of repetition remains.*
23. *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 whether the concern is easily remediable, whether it has in fact been remedied and whether it is highly unlikely to be repeated.*

24. *We consider Miss Del-Greco's actions and dishonesty are not easily remediable and that Miss Del-Greco has displayed limited insight, which would be required for remediation. We take this view for the following reasons:*
25. *The Agency discovered the discrepancies with time sheets and contacted Ms DelGreco on 2 March 2022 as she had made enquiries as to why she was unable to book further shifts. During the telephone conversation, Ms Del-Greco had the opportunity to make admissions to her conduct but instead she omitted any admission and gave false explanations as to her innocence.*
26. *As a result of the explanation given, the Agency conducted further investigation and discovered the fraud. On 14 March 2022, the Agency contacted Ms Del-Greco again and no admission was given despite the evidence presented to her. It was only in a second call the same day that Ms Del-Greco made admissions to completing some of the timesheets even though she did not work them. Some admission was made but minimal detail was given, and personal circumstances cited as a reason for her actions.*
27. *During local investigation, in interview, Ms Del-Greco did make admissions to the conduct however when explaining why she acted this way, she stated It was while [PRIVATE]. No further insight or understanding of the seriousness of the conduct was shown.*
28. *In response to the NMC investigation, Ms Del-Greco completed a Regulatory concerns response form in which she does state 'I am deeply ashamed of my actions in doing so and feel there is little defence for what I did... I am deeply ashamed and disgusted by what I have done.'" However, her insight is still extremely limited as she does not articulate how her actions were wrong. She has not reflected on the impact of her dishonesty on the Trust or her colleagues. She has not explained her understanding of how her actions and dishonesty are serious.*
29. *We note the registrant has worked since the issues of concern. We have not received any testimonials.*

30. *We consider there is a continuing risk to the public due to Ms Del-Greco's lack of full insight. Ms Del-Greco's failure to demonstrate proper insight means there is a real risk of repetition.*

Public interest

31. *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."

32. *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.*

33. *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.*

34. *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.*

35. *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. Ms Del-Greco's conduct engages the public interest because Ms Del Greco 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.

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: Professional standards of practice and behaviour for nurses and midwives 2018' ("the Code").

The panel was of the view that Miss Del-Greco's actions did fall significantly short of the standards expected of a registered nurse, and that Miss Del-Greco'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, treating people fairly and without discrimination, bullying or harassment*

20.3 *be aware at all times of how your behaviour can affect and influence the behaviour of other people*

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

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 registered nurse, midwife or nursing associate

To achieve this, you must:

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.

With respect to charges 1a and 1b, the panel considered Miss Del-Greco's actions to be extremely unprofessional, and that they would be seen as deplorable by other members of the profession and members of the public. It was of the view that Miss Del-Greco's conduct amounted to a serious breach of her position of trust as she abused the trust placed on her by the Agency to work on shifts allocated to her and to submit accurate timesheets. The panel noted that Miss Del-Greco's conduct had a negative financial impact on the Agency as she was overpaid the sum of £26,154.48 by the Agency for shifts that were never worked. Furthermore, the panel considered that Miss Del-Greco's conduct was premeditated, wide-ranging and repeated on multiple occasions over a substantial period of time. This is likely to have continued if the internal audit had not been conducted by the Agency.

The panel therefore found Miss Del-Greco's actions to be on the higher scale of seriousness on the spectrum of misconduct and that they constituted a serious breach of fundamental standards of professional conduct and behaviour that a registered nurse is expected to maintain. Accordingly, the panel determined that Miss Del-Greco's actions in charge 1a and 1b amounted to misconduct.

With regard to charges 2 and 3, the panel was of the view that Miss Del-Greco's actions in charges 1a and 1b demonstrated dishonesty which was a serious departure from the professional standards of behaviour expected of a registered nurse. The panel considers honesty, integrity and trustworthiness to be the bedrock of the nursing profession and, in being dishonest, it found Miss Del-Greco to have breached a fundamental tenet of the nursing profession and brought the reputation of the nursing profession into disrepute. The panel considered that to characterise Miss Del-Greco's actions as anything other than misconduct would undermine public confidence in the nursing profession. Therefore, the panel was in no doubt that Miss Del-Greco's conduct in charges 2 and 3 were extremely serious and amounted to misconduct.

Consequently, having considered the proven charges individually and as a whole, the panel determined that Miss Del-Greco's actions did fall seriously short of the conduct and standards expected of a registered nurse and amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Miss Del-Greco's fitness to practise is currently impaired.

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

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

'In determining whether a practitioner's fitness to practise is impaired by reason of misconduct, the relevant panel should generally consider not only whether the practitioner continues to present a risk to members of the public in his or her current role, but also whether the need to uphold proper

professional standards and public confidence in the profession would be undermined if a finding of impairment were not made in the particular circumstances.'

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

'Do our findings of fact in respect of the doctor's misconduct, deficient professional performance, adverse health, conviction, caution or determination show that his/her/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 found that limbs b, c and d of the *Grant* test are engaged in the case. The panel determined that Miss Del-Greco's actions constituted a serious breach of the fundamental tenets of the nursing profession as she failed to uphold the standards and values of the nursing profession, thereby bringing the reputation of the profession into disrepute. Furthermore, it found that Miss Del-Greco had acted dishonestly. However, the panel considered that limb a of the *Grant* test is not engaged in this case. It was of the view that there was insufficient evidence before it to suggest that the shifts she had falsely booked, left those shifts understaffed and therefore placed patients at risk of harm.

The panel had regard to the NMC Guidance on Impairment especially the question which states:

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

The panel is aware that this is a forward-looking exercise and, accordingly, it went on to consider whether Miss Del-Greco's misconduct is remediable and whether it has been remedied.

The panel considered whether Miss Del-Greco's actions as found in the charges proved are easily remediable. It was of the view that the concerns are very difficult to remediate due to their serious and dishonest nature. Such persistent and premeditated dishonesty is, in the view of the panel, suggestive of deep-seated attitudinal concerns which are difficult to remediate.

Nevertheless, the panel went on to consider the efforts Miss Del-Greco had made to remediate. Regarding insight, the panel was of the view that Miss Del-Greco has failed to show insight into her conduct. The panel noted that whilst Miss Del-Greco had shown remorse and apologised for her actions during the Trust's investigation and interview, she had initially denied the allegations during the internal audit of the Agency and had sought to provide justifications for her conduct. The panel further noted that Miss Del-Greco failed to demonstrate any insight on the impact of her conduct on the Agency, the Trust, the nursing profession and the wider public. It was concerned that Miss Del-Greco did not demonstrate any understanding of the seriousness of her misconduct, nor did she provide any information about detailed steps she would take to prevent such a situation re-occurring in the future.

In considering whether Miss Del-Greco had addressed her misconduct, the panel noted that there was no evidence before it to indicate that Miss Del-Greco had addressed her misconduct. Miss Del-Greco has not provided a reflective statement or any evidence of strengthened practice to remediate her misconduct.

In light of this, the panel determined that there is a high risk of repetition of Miss Del-Greco's misconduct. Nevertheless, the panel noted that it did not have sufficient evidence before it to conclude that Miss Del-Greco's actions placed patients at risk of unwarranted harm and therefore, it concluded a finding of impairment is not 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 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 had regard to the serious nature of Miss Del-Greco's misconduct and determined that public confidence in the profession, particularly as it involved dishonest conduct during her employment as a registered nurse, would be undermined if a finding of impairment were not made in this case. It was of the view that a fully informed member of the public, aware of the proven charges in this case, would be very concerned if Miss Del-Greco were permitted to practise as a registered nurse without restrictions. For this reason, the panel determined that a finding of current impairment on public interest grounds is required. It determined that this finding is necessary to mark the seriousness of the misconduct, the importance of maintaining public confidence in the nursing profession, and to uphold the proper professional standards for members of the nursing profession.

Having regard to all of the above, the panel was satisfied that Miss Del-Greco's fitness to practise is currently impaired on public interest grounds.

Sanction

The panel has considered this case very carefully and has decided to make a striking-off order. It directs the registrar to strike Miss Del-Greco off the register. The effect of this order is that the NMC register will show that Miss Del-Greco 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 took into account the NMC's written representations on sanction, which stated:

'Sanction

36. *We consider the appropriate and proportionate sanction in this case to be a striking off order.*
37. *The aggravating features of the case are:*
 - a. *Abuse of a position of trust*
 - b. *A pattern of misconduct over a sustained period of time*
 - c. *Lack of insight into failings.*
38. *The mitigating features of the case are:*
 - a. *Admissions of facts during local investigation.*
39. *With regard to our sanctions guidance considering sanctions for serious cases – reference SAN-2 and in particular, cases involving dishonesty, the following aspects have led us to this conclusion:*
40. *The allegations are too serious to take no further action. To achieve the NMC's overarching objective of public protection, action does need to be taken to*

secure public trust in nurses and to promote and maintain proper professional standards and conduct.

41. *A caution order is only appropriate for cases which are less serious. The conduct in this case involves behaviour that was dishonest, longstanding and in breach of trust which is too serious for a caution order to address.*
42. *A conditions of practice order would not be appropriate, in that there are no identifiable areas of nursing practise which require assessment and/or retraining. Additionally, the dishonesty of Ms Del-Greco is a strong indication of deep-seated harmful personality problems.*
43. *A suspension order would restrict Ms Del-Greco's practice for a period: protecting the public and upholding the public interest to a certain extent. However, such an order would not sufficiently mark the seriousness of the conduct in question, nor sufficiently protect the public confidence in nurses.*
44. *There are examples in the guidance for when a suspension may be suitable, but they do not apply in this case: This was not a single incident of misconduct but a sustained course of conduct over a period of time and came to an end only upon the Agency noticing the discrepancies. This conduct is indicative of a harmful deep-seated personality or attitudinal problems. Ms Del-Greco's conduct is not such that can be remediated and therefore poses a significant risk to the reputation of the profession. As such, a suspension order would not mark the seriousness of the conduct in question nor sufficiently protect the public confidence in nurses. A suspension order is therefore not to be considered a proportionate response to the concerns raised.*
45. *A striking-off order is the most appropriate order in the circumstances as Ms Del Greco's actions are fundamentally incompatible with being a registered professional.*
46. *Ms Del Greco has shown a lack of probity, honesty and trustworthiness stemming from her professional duties at the Trust where she worked. Striking-*

off orders have been upheld on the basis that they have been justified for reasons of maintaining trust and confidence in the professions. In this case, although there were no concerns around Ms Del-Greco's clinical skills, her dishonest actions undermine everything the profession stands for.

47. Ms Del Greco's actions raise fundamental concerns about her professionalism and public confidence in nurses cannot be maintained if she is not removed from the register. A striking-off order is the only sanction which will be sufficient to maintain professional standards and address the public interest in this case. Her conduct is fundamentally incompatible with remaining on the register.

48. It is for these reasons that a striking-off order is the only appropriate sanction in the circumstances.'

Decision and reasons on sanction

Having found Miss Del-Greco'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 identified the following aggravating features:

- Miss Del-Greco abused her position of trust.
- Miss Del-Greco's actions demonstrated a pattern of misconduct over a period of time.
- Miss Del-Greco's dishonest conduct was premeditated, systematic and longstanding.
- No evidence of insight and remediation.

The panel also identified the following mitigating feature:

- Miss Del-Greco admitted and accepted the regulatory concerns during the investigation at the Trust and in her email to the NMC dated 8 March 2024.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. It had found that Miss Del-Greco had breached fundamental tenets of the nursing profession, and her misconduct would undermine the public's confidence in the nursing profession if she were allowed to practise without restriction. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

The panel then considered the imposition of a caution order but again determined that, due to the seriousness of the case, an order that does not restrict Miss Del-Greco's nursing 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 Miss Del-Greco'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 Miss Del-Greco's registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular the following:

'Conditions may be appropriate when some or all of the following factors are apparent:

- *no evidence of harmful deep-seated personality or attitudinal problems;*
- *identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- *no evidence of general incompetence;*
- *potential and willingness to respond positively to retraining;*
- *.....;*

- *patients will not be put in danger either directly or indirectly as a result of the conditions;*
- *the conditions will protect patients during the period they are in force;*
and
- *conditions can be created that can be monitored and assessed.'*

The panel was of the view that Miss Del-Greco's actions identified in this case could not be addressed through retraining and were difficult to remediate. The panel had also identified deep-seated attitudinal problems in this case on Miss Del-Greco's part. It determined that, given the seriousness of the concerns, the deep-seated attitudinal problems and Miss Del-Greco's lack of insight into the impact of her actions on the Agency, the Trust, the nursing profession and the public, there are no practicable or workable conditions that could be formulated.

The panel further noted that Miss Del-Greco was no longer working as a registered nurse and had applied for a voluntary removal from the register. Accordingly, the panel determined that a conditions of practice order would not be appropriate and would not address the public interest considerations in this case.

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

- *'A single instance of misconduct but where a lesser sanction is not sufficient;*
- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *No evidence of repetition of behaviour since the incident;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*
- *.....;*
- *.....'*

The panel considered that this was not an isolated incident but rather a sustained pattern of behaviour over a long period of time. It found that although Miss Del-Greco had demonstrated some remorse during the Trust's investigation and interview, she has failed to demonstrate insight into the impact of her conduct on the Agency, the Trust, the nursing profession and the public. The panel found that her actions are suggestive of deep-seated attitudinal concerns which heightens the significant risk of repetition.

Therefore, the panel was not satisfied that a period of suspension would serve any useful purpose. Consequently, the panel determined that a suspension order would not be a sufficient or proportionate sanction, nor would it satisfy the public interest consideration 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 was of the view that all of the criteria as set out above are met in this case.

The panel also had regard to the NMC Guidance on 'Considering sanctions for serious cases', in particular, 'Cases involving dishonesty', SAN-2. The panel found that Miss Del-Greco's conduct was not a one-off incident nor was it a spontaneous action, but instead a premeditated and systematic course of conduct involving multiple dishonest acts over an extended period of time. The panel considered that Miss Del-Greco abused her position of trust for her personal gain by exploiting the lapse in the Agency internal system to claim payments for shifts she had not worked. It was a longstanding deception in which Miss Del-Greco sought to cover up her dishonest acts thereby breaching her professional duty of candour.

The panel therefore found the dishonesty in this case to be serious and at the higher end of the spectrum of serious cases.

The panel determined that Miss Del-Greco's actions constituted a serious breach of fundamental standards of professional conduct and behaviour that a registered nurse is expected to maintain. The panel found that Miss Del-Greco's actions were significant departures from the standards expected of a registered nurse.

The panel concluded that the serious breach of fundamental tenets of the profession, evidenced by Miss Del-Greco's actions and dishonest conduct, is fundamentally incompatible with her remaining on the register. The panel was of the view that the findings in this particular case raises serious and significant questions about Miss Del-Greco's professionalism 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, the panel determined that the appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of Miss Del-Greco's actions in bringing the nursing 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 a striking-off order 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 standards of behaviour expected and required of a registered nurse.

This will be confirmed to Miss Del-Greco 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 Miss Del-Greco's own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

Representations on interim order

The panel took account of the representations on interim order made by the NMC which stated:

'Interim Order Consideration

49. If a finding is made that the registrant'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 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. Although the panel found that Miss Del-Greco's conduct did not place patients at unwarranted risk of harm, it determined that Miss Del-Greco had breached fundamental tenets of the nursing profession, and her misconduct would undermine the public's confidence in the nursing profession if she were allowed to practise without restriction. Therefore, the panel was satisfied that an interim order is in the public interest.

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 on public interest grounds, during any potential appeal period. The panel determined that not to impose an interim order would be inconsistent with its earlier decisions.

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

That concludes this determination.