

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

**Substantive Hearing
Tuesday 28 May 2024 – Friday 31 May 2024**

Virtual Hearing

Name of Registrant: Keith John Stott

NMC PIN 00C0319E

Part(s) of the register: V300: Nurse independent / supplementary prescriber (3 April 2018)
Nurses part of the register Sub part 1
RNA: Adult nurse, level 1 (23 June 2003)

Relevant Location: Birkenhead

Type of case: Misconduct

Panel members: Nicola Dale (Chair, lay member)
Vanessa Bailey (Registrant member)
Joanna Bower (Lay member)

Legal Assessor: Jayne Salt

Hearings Coordinator: Audrey Chikosha

Nursing and Midwifery Council: Represented by Holly Girven, Case Presenter

Mr Stott: Present and represented by Zahra Ahmed, instructed by Thompsons Solicitors.

Facts proved by admission: Charges 1.1, 1.2, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 4 & 5

Facts proved: 2.2

Fitness to practise: Impaired

Sanction: Striking- off order

Interim order:

Suspension order (18 months)

Decision and reasons on application to amend the charge.

The panel heard an application made by Ms Girven, on behalf of the NMC, to amend the wording of charge 4.

It was submitted by Ms Girven that the proposed amendment would provide clarity and more accurately reflect the evidence.

4. “On 8 September 2022 when asked **interviewed** by your employer ~~whether~~ **about** your relationship with PA ~~was sexual denied this~~ **denied it was sexual** which was incorrect”.

The panel heard from submissions from Ms Girven that these amendments better reflect the evidence and that it would not be unfair to you should these amendments be adopted.

Ms Ahmed was in agreement with the proposed amendments to charge 4.

The panel accepted the advice of the legal assessor and had regard to Rule 28 of ‘Nursing and Midwifery Council (Fitness to Practise) Rules 2004’, as amended (the Rules).

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

In response to panel questions, Ms Girven made a further application to amend the stem of the charges. It was noted that the conduct described in the charges spans a longer time frame than stipulated and therefore an amendment of the wording of the stem would better reflect the evidence and the charges.

Ms Ahmed supported this application.

“That you, a registered nurse

Between 26 August 2022 and ~~5 September 2022~~ **8 September 2022** in relation to Patient A”

Details of charge

That you, a registered nurse

Between 26 August 2022 and 8 September 2022, in relation to Patient A

1. Breached professional boundaries, in that you,
 - 1.1. on one or more occasions used social media to communicate with them which was inappropriate.
 - 1.2. on one occasion had sexual intercourse with them.

2. On 2 September 2022,
 - 2.1. personally booked an appointment to see Patient A which was inappropriate.
 - 2.2. proceeded to see Patient A which was inappropriate as they had already been referred to a GP.
 - 2.3. did not record on the EMIS system that you had seen them.
 - 2.4. did not record on the EMIS system that you had prescribed naproxen to them.

3. On one or more of the following occasions accessed their notes without clinical justification;
 - 3.1. 2 September 2022.
 - 3.2. 6 September 2022.
 - 3.3. 7 September 2022.

4. On 8 September 2022, when interviewed by your employer about your relationship with Patient A denied that it was sexual, which was incorrect.
5. Your actions at charge 4 were dishonest in that you attempted to conceal the fact that you had had sexual intercourse with Patient A

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

Background

On 30 September 2022 the NMC received a referral from the GP Partner/Clinical Lead at Miriam Medical Centre (the Practice), raising concerns about you. You had been employed by the Practice for eight years as an Advanced Nurse Practitioner working in their Minor injuries Service.

The concerns relate to your conduct between 26 August and 8 September 2022.

It is alleged you saw an 18-year-old female patient (Patient A) as a walk-in patient in the minor injuries service and, during the consultation, exchanged social media contact details with her. You allegedly exchanged Instagram messages with Patient A out of work, had several meetings with her and started an intimate relationship with her which culminated in sexual intercourse. It is also alleged that you made clinical appointments to see Patient A which were not appropriate and accessed her medical notes on more than one occasion without clinical justification.

The Practice became aware when they received a letter from the safeguarding team following a concern being raised by a Locum Pharmacist who had spoken to Patient A and her foster mother following the purchase of a morning after pill.

The Practice arranged to meet with you. At this meeting you denied having a sexual relationship with Patient A. You were suspended pending an investigation. You later submitted a statement where you accepted that you had developed an Instagram relationship with Patient A which led to meeting up with her and sexual encounters. A disciplinary meeting was arranged.

Decision and reasons on facts

At the outset of the hearing, the panel heard from Ms Ahmed who informed the panel that you made full admissions to charges 1.1, 1.2, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 4 and 5.

The panel therefore finds charges 1.1, 1.2, 2.1, 2.3, 2.4, 3.1, 3.2, 3.3, 4 and 5. proved in their entirety, by way of your admissions.

In reaching its decision on the disputed fact, the panel took into account all the oral and documentary evidence in this case together with the submissions made by Ms Girven, Ms Ahmed and you under oath.

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

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

- Witness 1: Colleague 1, practice manager at the Miriam Health. Providing evidence in relation to charge 2.2.

The panel also heard evidence from you under oath.

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

The panel then considered the disputed charge and made the following findings.

Charge 2.2

“proceeded to see Patient A which was inappropriate as they had already been referred to a GP”

This charge is found proved.

In reaching this decision, the panel took into account the local statement from Patient A, your local statement, the oral and documentary evidence before it today and the submissions from Ms Girven and Ms Ahmed.

The panel noted that it is not in dispute that on 2 September 2022, you saw Patient A and conducted a medical consultation. It is in dispute that this consultation was inappropriate as she had already been referred to a GP for cardiac issues. The panel had sight of the EMIS system transcript which recorded that you booked two appointments for Patient A and under reasons noted ‘unwell’ and ‘complex issues’. The panel noted that the term ‘unwell’ is broad and can encompass a variety of concerns.

The panel also had sight of Patient A’s statement which, in relation to the medical appointment in question reads:

‘The medication did not seem to work, I had taken paracetamol whilst at work and the beta blockers before I left for work, which did not start to kick in until after my lunch break. I started to have middle back pains, which I thought was odd, but after

a night of looking at my heart rate and it reaching 187 Bpm, then suddenly going down to 80 Bpm, whilst sitting which was not normal, this caused me to go light headed, so I was telling Keith and he said 'well no wonder you're going light headed with a rate that high'. He told me that he would see me on the 02.09.22....

...he asked me how I was doing 'not too good, just did not understand why my heart rate was high and breathing was difficult, as there was no known heart problems in my biological family...'

The panel noted that while Patient A made reference to other health concerns, namely 'middle back pains' and reports of light headedness the principle concern was her heart. The panel bore in mind that in your own local statement submitted to the Practice on 15 September 2022, you said '*I believe she re-attended the walk-in centre on 01/ 09/ 2022 [now accepted that it was 02/09/2022], I believe with palpitations again*'. The panel noted that this statement was taken closer to the date of the incident and that from your own recollection, the primary reason for her appointment was her heart.

Patient A was already under the care of a GP for her cardiac issues and therefore should have been seen by her GP rather than being booked in with an appointment with you.

The panel acknowledged that you now deny that the central ailment she visited the walk-in centre for was her heart and instead contend it was due to a new condition, back pain. You told the panel that Patient A had complained of back pain in your conversations on social media which led you to booking the appointments for her. The panel however, noted that there were no consultation notes completed, and there was no mention of back pain in the 'reason for appointment' section on the EMIS record.

In light of the above, the panel was satisfied that on the balance of probabilities, more likely than not, Patient A came to the walk-in centre on 2 September 2022 with further concerns about her heart. You then arranged and conducted the medical examination

despite Patient A already being under the care of a GP for this which was inappropriate. Therefore, the panel find charge 2.2 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 your 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, your fitness to practise is currently impaired as a result of that misconduct.

Submissions on misconduct

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

Ms Girven invited the panel to take the view that 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 (2015' (the Code) in making its decision.

Ms Girven identified the specific, relevant standards where your actions amounted to misconduct. She submitted that you breached the following elements of the code; 5.1, 8.1, 10.1, 20.2, 20.5, 20.6, 20.10.

Ms Girven then reviewed each charge in turn.

Charge 1

Ms Girven submitted that charge one amounts to a serious breach of professional boundaries. She submitted that while Patient A is an adult, her circumstances as a patient and as a formerly looked-after individual qualifies her as a vulnerable patient.

Furthermore, she submitted that engaging in sexual intercourse with such a patient fell significantly short of the expectations of a nurse.

Charge 2

Ms Girven submitted that your conduct in relation to charge 2 fell significantly below the standard expected of a registered nurse. She submitted that it is important for medical appointments are only booked when needed and are clinically justified and the proper procedures must be taken to arrange them.

Ms Girven also submitted that record keeping is a key aspect of nursing. She reminded the panel that you said it was only Patient A's consultation notes you did not record that day and submitted that it is unclear why you didn't record the notes at the next opportunity if you had not had time during the consultation.

Charge 3

Ms Girven submitted that data protection and privacy are important aspects of nursing. She submitted that viewing patient records without justification is a breach of patient privacy and falls below the standard expected of a nurse. Ms Girven submitted that patients have a right to expect that their records are managed and only accessed when appropriate which you failed to do.

Charges 4 & 5

Ms Girven took charge 4 and 5 together and submitted that individually and cumulatively indicate dishonest behaviour. She submitted that your actions once again fell short of the standard expected and therefore amount to misconduct.

Ms Ahmed submitted that you accept that the threshold for misconduct has been met. She submitted that you have made admissions to dishonesty and acknowledge that it is a serious breach of professional boundaries. She submitted that you have not shied away from taking accountability for your actions and you are remorseful for how you acted.

Ms Ahmed also submitted that in relation to charge 4, this is a one-off case of dishonesty, and it was brought about by panic and a serious lapse of judgement. She submitted that you panicked when first interviewed about your relationship with Patient A and therefore your dishonesty was not planned or for any financial gain.

Submissions on impairment

Ms Girven moved on to the issue of impairment and addressed the panel on the need to have regard to protecting the public and the wider public interest. This included the need to declare and maintain proper standards and maintain public confidence in the profession and in the NMC as a regulatory body. This included reference to the cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin) and *Cohen v General Medical Council* [2008] EWCH 581 (Admin).

Ms Girven submitted that, in light of the charges found proved, you currently cannot practise kindly safely and professionally. She referred the panel to *Cohen v General Medical Council* and invited the panel to consider whether your conduct is remediable or likely to be repeated.

Ms Girven next relied on the NMC Guidance FTP-14a. She submitted that the guidance lists conduct that may not be possible to remedy which included inappropriate personal or sexual relationships with service users or other vulnerable people as well as dishonesty.

Ms Girven submitted that while you have shown some level of insight, it requires developing. She submitted that you have not fully recognised the impact of your behaviour on Patient A. Furthermore, she submitted that while your reflective statement demonstrates a level of accountability and remorse, there is nothing to indicate how you would act differently in a similar situation. In addition, Ms Girven submitted that breaching professional boundaries and dishonesty cannot be trained and as such there is nothing before the panel to demonstrate remediation of these concerns.

Ms Girven then took the panel through the four-limb test of Grant.

In relation to limb one, Ms Girven submitted that your actions put Patient A at serious risk of harm. She submitted that due to her vulnerability, the significant breach of professional boundaries and your limited insight, there remains a risk for this to be repeated in the future.

Ms Girven submitted that in relation to limb two, the public would be concerned if they were fully aware of the facts and nature of your conduct, putting the profession at risk of disrepute.

Ms Girven submitted that limb three is also engaged. She submitted that you have breached several fundamental tenets of the profession and in particular; breaching professional boundaries and failing to keep accurate records.

Ms Girven also submitted that the fourth limb is engaged in this case. She reminded the panel that you have accepted a charge of dishonesty. She submitted that due to your current lack of insight there remains a risk that this dishonesty will be repeated in the

future. Ms Girven also submitted that dishonesty is difficult to show remediation and thus there remains a risk of repetition.

For the above reasons, Ms Girven submitted that a finding of impairment is therefore needed to protect the public.

Ms Girven also submitted that a finding of impairment is also in the public interest. She submitted that the concerns are extremely serious and that it would seriously undermine public confidence in the nursing profession and NMC as its regulator if a finding of impairment were not made.

Ms Ahmed referred the panel to your reflective statement. She submitted that you take accountability for your actions and that you accept that you have breached professional boundaries and acted dishonestly.

However, Ms Ahmed also submitted that while you were dishonest, you quickly remedied this by submitting a full admission of your actions and your relationship with Patient A. She also submitted that you have been cooperative and engaged fully with the NMC throughout these proceedings.

Ms Ahmed submitted that you wish to publicly apologise to Patient A and that you are thoroughly remorseful over the incidents that happened. She accepted that taking into consideration the wider public interest, it is accepted that public confidence has been damaged as result of your conduct.

Ms Ahmed further submitted that you wish to apologise to your colleagues, your family, and friends as well as the local community that you served. She submitted that you have always taken pride in being an advocate for others, protecting and serving the public.

Ms Ahmed accepted that dishonesty is difficult to show remediation and reassure the panel that it will not be repeated in the future. However, she asked the panel to consider

your previous unblemished record, your reflective statement and your Continuing Professional Development (CPD) which shows you are continuing to learn and strengthen your practice.

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), *General Medical Council v Meadow* [2007] QB 462 (Admin) and *Cohen v General Medical Council* [2008] EWHC 581 (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 your actions did fall significantly short of the standards expected of a registered nurse, and that your actions amounted to a breach of the Code. Specifically:

'5.1 respect a person's right to privacy in all aspects of their care

10.1 complete all records at the time or as soon as possible after an event, recording if the notes are written some time after the event

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...

20.5 treat people in a way that does not take advantage of their vulnerability or cause them upset or distress

20.6 *stay objective and have clear professional boundaries at all times with people in your care (including those who have been in your care in the past), their families and carers*

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

20.10 *use all forms of spoken, written and digital communication (including social media and networking sites) responsibly, respecting the right to privacy of others at all times.'*

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 your conduct was a serious departure from the code. The panel noted that the charges amount to serious breaches individually and cumulatively, therefore the seriousness is amplified.

The panel noted the vulnerability of Patient A as a service user and as a previously looked-after individual. The panel was of the view that the sexual content and the manner of your social media messaging with Patient A amounted to grooming and the panel also noted the local statement of Patient A which reads:

'Now, I feel as though I have been taken advantaged off and groomed, I also feel as though I am the fool, and the one to be blamed, but I am also scared to go to my doctors, in case he is there...'

The panel found that this demonstrates that there was significant harm to Patient A. Furthermore, the panel noted that you breached the fundamental tenets of the nursing profession and exhibited deep seated attitudinal and behavioural concerns.

The panel therefore found that your 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, your 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 and to maintain professional boundaries. Patients and their families must be able to trust nurses with their lives and the lives of their loved ones. To justify that trust, nurses must be honest and open and act with integrity. They must make sure that their conduct, at all times, justifies both their patients’ and the public’s trust in the profession.

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

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

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

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

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

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

The panel finds that Patient A was put at risk of harm in that she felt the need to take emergency hormonal contraception and emotional harm as a result of your misconduct. Your 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 misconduct of a sexual nature and dishonesty extremely serious. Furthermore, the panel noted that although you have made admissions regarding your misconduct of a sexual

nature and dishonesty, it was of the view that there is limited evidence before it to suggest this would not be repeated in the future.

The panel determined that you have shown only limited insight. The panel acknowledged the reflections you made and the level of remorse and accountability you have shown. However, the panel was not satisfied that these reflections have gone far enough. The panel noted that while you have apologised, you have not demonstrated that you fully understand how your actions may have impacted Patient A. It also noted that there is only very limited evidence before the panel today to show that you have strengthened your practice in all the areas that you have fallen short or how you would act differently in the future if the circumstances were repeated.

In considering the test in Cohen, the panel found that the misconduct in this case relating to misconduct of a sexual nature and dishonesty would always be difficult to remediate. Therefore, the panel carefully considered the evidence before it in determining whether or not you have taken steps to strengthen your practice. The panel noted your CPD training certificates but was not satisfied that this demonstrated a strengthening of your practice in the relevant areas. It noted that your reflections in relation to the additional training are limited and weak and you have not indicated how your training will help you in the future should you be in a similar position.

Therefore, the panel is of the view that there is a risk of repetition based on your limited insight and the fact it has seen only very limited evidence of strengthened practice. 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 because a fully informed member of the public would find it deplorable should a finding of impairment not be made. The panel considered the seriousness of the charges and the significant impact your conduct has had on a member of the public. It determined, in light of the charges found proved, that should a finding of impairment not be made, it would undermine public confidence in the profession and the NMC as its regulator. Therefore the panel also finds your fitness to practise impaired on the grounds of public interest.

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

Sanction

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

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

Submissions on sanction

Ms Girven informed the panel that the NMC have made a bid to seek the imposition of a striking off order in light of the finding that your fitness to practise is currently impaired.

Ms Girven submitted that there are various aggravating factors for the panel to consider as it makes its decision regarding sanction namely:

- Patient A was a vulnerable patient

- Your conduct amounted to grooming
- Your misconduct was of a sexual nature
- There is a charge of dishonesty.

Ms Girven also noted that while you have shown some evidence of insight this has been limited and therefore there remains an ongoing risk to the public.

Ms Girven then took each sanction in turn and made submissions to the panel.

Ms Girven firstly submitted that no further action would be inappropriate in light of the panel's finding of impairment. She also submitted that a caution order is only appropriate when there is no risk to the public and the misconduct is less serious which she submitted is not the case in this matter.

Ms Girven next addressed the imposition of a conditions of practice order. She submitted that there are no conditions that can be formulated to sufficiently protect the public or meet the public interest. Ms Girven referred to NMC Guidance SAN- 3c and took the panel through the relevant guidance regarding conditions of practice orders. She submitted that in these circumstances, in light of the nature of your misconduct, it is difficult to see how conditions could be formulated to sufficiently protect the public. Ms Girven submitted that any conditions that would appropriately address the concerns would need to be so stringent as to be unworkable. She therefore invited the panel to consider a condition of practice to be inappropriate in this case.

Ms Girven next submitted that a suspension order is only appropriate where there has been a single incident of misconduct, no evidence of deep-seated attitudinal concerns and there is little to no risk of repetition.

Ms Girven submitted that while it is accepted that your conduct was over a short period, it was not a one-off incident of misconduct. She submitted that there is evidence of deep-seated behavioural issues and while the conduct only relates to as single patient, this

patient was vulnerable and your insight into how your actions may have impacted her is limited. Ms Girven therefore submitted that there remains a risk of repetition in the future and as such invited the panel to consider a suspension order to not be appropriate in these circumstances.

Ms Girven invited the panel to impose a striking off order. She submitted that your conduct is fundamentally incompatible with being a registered nurse. In addition, she submitted that your misconduct raises fundamental questions about your professionalism, in particular your breach of professional boundaries and dishonesty.

Furthermore, Ms Girven submitted that due to the serious nature of the charges found proved, combined with your limited insight and the finding of an ongoing risk to the public, the public confidence in the profession would be undermined should you remain on the NMC register. Ms Girven acknowledged that a suspension order would also restrict you from working for a period of time, but she submitted that temporary suspension from the register is not appropriate in this case to uphold the proper professional standards of the nursing profession or meet the public interest.

The panel also bore in mind Ms Ahmed's submissions that it is accepted that no order, caution order and conditions of practice would not be appropriate in this case. She accepted that dishonesty is an attitudinal matter however submitted that your conduct does not amount to deep seated personality issues.

Ms Ahmed submitted that since the incident, there has been no evidence of repetition of similar behaviour. She submitted that you have shown some insight into your actions and reminded the panel that you have taken full responsibility for your conduct. Ms Ahmed also asked the panel to consider your reflections and take note that you are very remorseful and through your admissions of the charges have shown further insight.

Ms Ahmed also submitted that in relation to the dishonesty charges, this was opportunistic and unplanned and not in any way for financial gain or trying to cover up flagrant misconduct.

Ms Ahmed publicly apologised to both Patient A and colleagues on your behalf.

Ms Ahmed submitted that it is a matter for the panel to consider the guidance and the evidence before it and submitted that the panel should carefully consider a suspension order and should only impose a striking-off order should it find all other options are not appropriate.

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- Patient A was a vulnerable patient and would have regarded you as a person in a position of authority and trust.
- Your conduct left Patient A feeling that she had been groomed.
- Your misconduct was of a sexual nature.
- The charges also relate to dishonesty.
- While only directed towards one patient, the misconduct arising from these charges amounted to a course of conduct over a period of 14 days.

- The inappropriate conduct was wide ranging spanning a breach of professional boundaries to inappropriate clinical behaviour relating to appointment booking, record keeping and accessing of notes.

The panel also took into account the following mitigating features:

- You made early admissions to the charges.
- You have demonstrated some insight, although it is limited.
- You have apologised publicly in your statement and through your advocate to Patient A, colleagues, and your community.
- You have accepted full responsibility for your actions.

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 your practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *‘the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.’* The panel considered that your misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the 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 your 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 sufficiently addressed through retraining. Furthermore, the panel concluded that the

placing of conditions on your registration would not adequately address the seriousness of this case and would not protect the public.

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

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

The panel found your conduct was a significant departure from the standards expected of a registered nurse.

The panel noted that while your misconduct relates to a single patient, your pattern of conduct spanned a period of 14-days and fell significantly short of the standards expected of a registered nurse. The panel also bore in mind that you would have been aware of the potential vulnerability of Patient A as a previously looked after child and, as such, your actions in developing inappropriate social media communications with her which ultimately led to meeting her outside of the workplace and having sexual intercourse with her, when compounded with the dishonesty charge, indicates deep-seated personality issues.

Whilst dishonesty is always extremely serious, the panel accepted that your dishonesty may have been spur of the moment and opportunistic when first interviewed about these matters and that you soon after admitted to having sexual relations with Patient A. However, whilst the panel found that you have shown some limited insight which could be further developed, it determined that your actions in developing and having a sexual relationship with a potentially vulnerable patient were such that, even with sufficient

insight, confidence in the profession has been irreparably damaged. Therefore, the panel determined given the gravity of the misconduct in this case, a suspension order would not be a sufficient, appropriate, or proportionate sanction to protect the public or meet the public interest.

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?*

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

The panel considered PSA Guidance: Council for Healthcare Regulator Excellence Guidance on '*Clear sexual boundaries between healthcare professionals and patients: responsibilities of healthcare professionals*:' [2008], in particular:

'All healthcare professionals must be self-aware and recognise behaviours which, while not necessarily constituting a breach of sexual boundaries, may be precursors to displaying sexualised behaviour towards patients or carers. These behaviours include:

- *...seeing patients outside of normal practice, for example when other staff are not there, appointments at unusual hours, not following normal patient*

appointment booking procedures or preferring a certain patient to have the last appointment of the day other than for clinical reasons.

- *clinically unnecessary communications.'*

and;

'It is the responsibility of healthcare professionals to be aware of the potential for an imbalance of power and to maintain professional boundaries to protect themselves and their patients'.

The panel was of the view that your actions amounted to a significant abuse of trust and that the public would be shocked to find that you were permitted to practise given the seriousness and gravity of your misconduct.

The panel noted that the serious breach of the fundamental tenets of the profession evidenced by your actions is fundamentally incompatible with you remaining on the register.

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

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

This will be confirmed to you 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 your own interests until the striking-off sanction takes effect.

Submissions on interim order

Ms Girven made an application for an interim suspension order for a period of 18 months. She submitted that this is to cover the appeal period and for the same reasons the panel made findings of impairment and imposed a striking-off order.

Ms Ahmed submitted that the imposition of an interim order was a matter for the panel's judgement.

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

Decision and reasons on interim order

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

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

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

That concludes this determination.