Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Hearing (CPD)
Monday, 28 October 2024 – Tuesday, 29 October 2024

Virtual Hearing

Name of Registrant:	Sheena Ann Adams
NMC PIN	06A0995E
Part(s) of the register:	Sub Part 1 RNA: Adult Nurse, level 1 (30 January 2006)
Relevant Location:	England
Type of case:	Misconduct
Panel members:	Susan Thomas (Chair, lay member) Esther Craddock (Registrant member) Lorraine Wilkinson (Lay member)
Legal Assessor:	Charles Parsley
Hearings Coordinator:	Samara Baboolal
Nursing and Midwifery Council:	Represented by Giedrius Kabasinskas, Case Presenter
Mrs Adams:	Not present and not represented at this hearing
Consensual Panel Determination:	Accepted
Facts proved:	All facts found proved by admission
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 Hearing

The panel was informed at the start of this hearing that Mrs Adams was not in attendance and that the Notice of Hearing letter had been sent to Mrs Adams' registered email address by secure email on 12 September 2024.

Mr Kabasinskas, on behalf of the Nursing and Midwifery Council (NMC), submitted that it had complied with the requirements of Rules 11 and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, dates and that the hearing was to be held virtually, including instructions on how to join and, amongst other things, information about Mrs Adams' right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence. The panel noted that the period of notice exceeded the requisite 28 days and that there was correspondence with the Royal College of Nursing (RCN) confirming that Mrs Adams was aware of the hearing.

In the light of all of the information available, the panel was satisfied that Mrs Adams has been served with the Notice of Hearing in accordance with the requirements of Rules 11 and 34.

Decision and reasons on proceeding in the absence of Mrs Adams

The panel next considered whether it should proceed in the absence of Mrs Adams. It had regard to Rule 21 and heard the submissions of Mr Kabasinskas, who invited the panel to continue in the absence of Mrs Adams. He submitted that Mrs Adams had voluntarily absented herself.

Mr Kabasinskas informed the panel that a provisional Consensual Panel Determination (CPD) agreement had been reached and signed by Mrs Adams on 24 October 2024.

Mr Kabasinskas also referred the panel to the documentation from Mrs Adams' RCN representative which included email correspondence, dated 14 October 2024, which says:

> *'The registrant confirms their preference to pursue CPD. The registrant admits the charges and admits that their fitness to practise is impaired. [PRIVATE].'*

The panel also took into account an email received by the Hearings Coordinator this morning from Mrs Adams' representative which says the following regarding her attendance:

> *'CPD agreement has been signed and submitted, which details in paragraph 1 that:*
>
> *Mrs Adams is aware of the CPD hearing. Mrs Adams does not intend on attending the hearing and is content for it to proceed in their and their representative's, Anahita Syed of the Royal College of Nursing ('RCN'), absence.'*

The panel accepted the advice of the legal assessor.

The panel noted that its discretionary power to proceed in the absence of a registrant under the provisions of Rule 21 is not absolute and is one that should be exercised "with the utmost care and caution" as referred to in the case of *R.* v *Jones (Anthony William)* (No.2) [2002] UKHL 5.

The panel has decided to proceed in the absence of Mrs Adams. In reaching this decision, the panel has considered the submissions of Mr Kabasinskas and the advice of the legal assessor. It had regard to the factors set out in the decision of *R v Jones* and *General*

Medical Council v Adeogba [2016] EWCA Civ 162 and had regard to the interests of fairness to all parties. It noted that:

- Mrs Adams has engaged with the NMC and has signed a provisional CPD agreement which is before the panel today;
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- [PRIVATE]; and
- There is a strong public interest in the expeditious disposal of the case.

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

Decision and reasons on application for hearing to be held in private

At the outset of the hearing, Mr Kabasinskas made a request that this case be held partly in private on the basis that [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

The legal assessor reminded the panel that while Rule 19(1) provides, as a starting point, that hearings shall be conducted in public, Rule 19(3) states that the panel may hold hearings partly or wholly in private if it is satisfied that this is justified by the interests of any party or by the public interest.

The panel determined to go into private session in connection with [PRIVATE].

Details of charge

That you, a registered nurse:

1. Between the dates 3-8 May 2022 breached staff confidentiality by accessing employee training records for members of staff in schedule 1 without their consent.

2. Between the dates 3-8 May 2022 completed e-learning on behalf of colleagues in schedule 1.

3. Your actions in charge 2 were dishonest in that you intended anyone reviewing staff e-learning to believe all staff had completed this when you knew they had not done so.

4. On 23 November 2022 in relation to Patient 1;

a) inaccurately recorded that you had taken a blood glucose and/or ketone observations at 16:15 hours.

b) inaccurately recorded sign in and sign out times in the electronic clinical notes and/or sign in book.

c) pre-recorded the administration of insulin.

5. On 23 November 2022 in relation to Patient 2;

a) inaccurately recorded administering insulin

b) inaccurately recorded an entry that blood glucose levels had been checked

c) Failed to carry out blood glucose and/or ketone observations without clinical justification.

6. On 23 November 2022 in relation to Patient 3;

a) Pre-recorded insulin had been administered at the afternoon visit

b) Inaccurately recorded an entry that blood glucose levels had been checked at the afternoon visit.

c) Failed to carry out blood glucose and/or ketone observations without clinical justification.

7. Dishonesty in that the behaviour at charge 4, 5 and 6 intended to create the misleading impression that the work had been done when you knew it had not been.

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

Consensual Panel Determination

At the outset of this hearing, Mr Kabasinskas informed the panel that a provisional agreement of a Consensual Panel Determination (CPD) had been reached with regard to this case between the NMC and Mrs Adams.

The agreement, which was put before the panel, sets out Mrs Adams' full admissions to the facts alleged in the charges, that her actions amounted to misconduct, and that her fitness to practise is currently impaired by reason of that misconduct. It is further stated in the agreement that an appropriate sanction in this case would be a striking-off order.

The panel has considered the provisional CPD agreement reached by the parties.

That provisional CPD agreement reads as follows:

'The Nursing & Midwifery Council ("the NMC") and Sheena Ann Adams ('Mrs Adams'), PIN 06A0995E ("the Parties") agree as follows:

1. Mrs Adams is aware of the CPD hearing. Mrs Adams does not intend on attending the hearing and is content for it to proceed in their and their representative's, Anahita Syed of the Royal College of Nursing ('RCN'), absence. Mrs Adams and/or Ms Syed will endeavour to be available by telephone should clarification on any point be required,

or should the panel wish to make other amendments to the provisional agreement that are not agreed by Mrs Adams.

Preliminary issues

2. *Some evidence in this case includes details about [PRIVATE]. The Parties agree that parts of this agreement should remain private in accordance with Rule 19(3) of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004 ('the Rules').*

3. *Any details about [PRIVATE]. It is agreed that the principle of open justice does not extend to the disclosure of private and confidential matters of a nurse's personal life. Such references within this document have been marked 'PRIVATE' and 'END PRIVATE'.*

The charge

4. Mrs Adams admits the following charges:

That you, a registered nurse

8. Between the dates 3-8 May 2022 breached staff confidentiality by accessing employee training records for members of staff in schedule 1 without their consent.

9. Between the dates 3-8 May 2022 completed e-learning on behalf of colleagues in schedule 1.

10. Your actions in charge 2 were dishonest in that you intended anyone reviewing staff e-learning to believe all staff had completed this when you knew they had not done so.

11. On 23 November 2022 in relation to Patient 1;

a) inaccurately recorded that you had taken a blood glucose and/or ketone observations at 16:15 hours.

b) inaccurately recorded sign in and sign out times in the electronic clinical notes and/or sign in book.

c) pre-recorded the administration of insulin.

12. On 23 November 2022 in relation to Patient 2;

a) inaccurately recorded administering insulin

b) inaccurately recorded an entry that blood glucose levels had been checked

c) Failed to carry out blood glucose and/or ketone observations without clinical justification.

13. On 23 November 2022 in relation to Patient 3;

a) Pre-recorded insulin had been administered at the afternoon visit

b) Inaccurately recorded an entry that blood glucose levels had been checked at the afternoon visit.

c) Failed to carry out blood glucose and/or ketone observations without clinical justification.

14. Dishonesty in that the behaviour at charge 4, 5 and 6 intended to create the misleading impression that the work had been done when you knew it had not been.

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

The facts

5. *Mrs Adams appears on the register of nurses, midwives and nursing associates maintained by the NMC as a Registered Nurse – Adult, and has been on the NMC register since 30 January 2006.*

6. *On 05 August 2022 the NMC received a referral raising concerns about Mrs Adams' practice from Sanctuary Care Ltd. (090051/2022). Mrs Adams had been employed at one of their homes, Furzehatt Residental and Nursing Home ('Furzehatt') as the Deputy Manager from 14 September 2020 and as the Home Manger from 13 December 2021.*

7. *On 02 December 2022 the NMC received a referral raising concerns about Mrs Adams' practice from Unity Healthcare Recruitment ('the Agency') (091686/2022). Mrs Adams had been employed by the Agency from 22 September 2022 and as an agency nurse. Livewell Southwest ('Livewell) is an independent healthcare services provider that outsources its community nursing service to the Agency.*

Charges 1-3

8. *Colleagues 1 to 5 were a mix of domestic staff, care assistants, and team leaders at Furzehatt.*

9. *On 04 May 2022 Mrs Adams logged into MLC, Sanctuary Care Ltd.'s e-learning cloud, and changed Colleague 1's access password for their training account. Colleague 1 was not aware that Mrs Adams had done this, nor had they given their consent. Mrs Adams then completed four outstanding e-learning modules for Colleague 1 i.e., Manual Handling Theory, Health and Safety Awareness, Cyber Security, and Fluids and Nutrition Awareness. Colleague 1 was unaware that Mrs Adams had completed the training on their behalf.*

10. *On the same date Mrs Adams logged into MLC and changed Colleague 3's access password for their training account. Colleague 3 was not aware that Mrs Adams had done this, nor had they given their consent. Mrs Adams then completed nine outstanding e-learning modules for Colleague 3 including Basic Life Support, Health and Safety Awareness, Safeguarding Adults, and Manual Handling Theory. Colleague 3 was unaware that Mrs Adams had completed the training on their behalf.*

11. *On the same date Mrs Adams logged into MLC and changed Colleague 4's access password for their training account. Colleague 4 was not aware that Mrs Adams had done this, nor had they given their consent. Mrs Adams then completed three outstanding e-learning modules for Colleague 4 i.e., Dementia Awareness, Cyber Security, and Manual Handling Theory. Colleague 4 was unaware that Mrs Adams had completed the training on their behalf.*

12. *On the same date Mrs Adams logged into MLC and changed Colleague 5's access password for their training account. Colleague 5 was not aware that Mrs Adams had done this, nor had they given their consent. Mrs Adams then completed two outstanding e-learning modules for Colleague 5 i.e., Display Screen Equipment and Cybersecurity Awareness. Colleague 5 was unaware that Mrs Adams had completed the training on their behalf.*

13. *On 06 and 07 May 2022 Mrs Adams logged into MLC and changed Colleague 2's access password for their training account. Colleague 2 was not aware that Mrs Adams had done this, nor had they given their consent. Mrs Adams then completed 13 outstanding e-learning modules for Colleague 2, including Medication Handling and Management, Safeguarding Adults, Infection Control, and Basic Life Support. Colleague 2 was unaware that Mrs Adams had completed the training on their behalf.*

14. *As a line manager, Mrs Adams was ensuring that all new employees had completed the induction framework and had attended and/or completed mandatory training as required for their role in line with Sanctuary Care Ltd.'s policy and legislative requirements.*

15. *Medication training compliance needed to be at 100% because it would be unsafe for staff to administer medication without the training. This was the same for manual handling training; it needed to be at 100%. Anything below that then Furzehatt would be issued with action points from the Regional Manager about compliance. If there was no improvement after a month or two, poor compliance would come up on quality assurance audits and an action plan would be put in place. Other organisations such as the Care Quality Commission or Local Authority might pick up on poor compliance.*

16. *There was a risk to residents if compliance with training was poor. For instance, if a home has all the right manual handling equipment, but staff have not been adequately trained, this would be picked up if there is a safety incident and the lack of staff training would be questioned.*

17. *On 19 May 2022 Regional Manager LK ('Mr LK') completed an unannounced visit to Furzehatt. Approximately two weeks prior, Furzehatt's Administrator had flagged that when they had tried to arrange payment for Colleagues 1 to 5 for the training, they had reported that they had not done it.*

18. *During the visit Mr LK spoke with Colleagues 1 and 5. Colleague 1 apologised for not being up to date with their training, even though their name was on Mr LK's printout from MLC of compliant staff. Colleague 5 told Mr LK's that they had been experiencing difficulties logging into MLC and therefore had not completed the training. Their name was also in the printout of compliant staff. Mr LK spoke with Mrs Adams, who said Colleague 1 and 5's training had not been completed. When presented with the e-learning compliance sheet, Mrs Adams then admitted that she had completed the e-learning on their behalf. She went on to further admit that she had completed the e-learning for Colleagues 2 and 3, and there may have been others as well.*

19. *Sanctuary Care Ltd. Commissioned an investigation. Following a disciplinary hearing on 06 June 2022 Mrs Adams was dismissed. An appeal hearing was held on 21 June 2022 and the decision was upheld.*

<u>Charges 4(a)-(c)</u>

20. *Patient 1 had Type 1 diabetes and lived in a residential care home ('Home 1') with no registered nurses. Home 1 had a contract with Livewell for nurses to attend twice daily for insulin administration. If Patient 1's blood sugar reading was above 25mmol then their ketones needed to be checked. If the ketone level exceeded 0.6 then the GP needed to be called. Home 1 had a blood sugar machine that recorded blood sugar levels and ketone readings. Mrs Adams also had their own agency issued blood sugar machine.*

21. *Mrs Adams was scheduled to visit Home 1, via the Agency, to administer Insulin to Patient 1 on 23 November 2022. That day Mrs Adams hand-signed the visitor login sheet and recorded that they had entered the home at 15.30 hours and left at 15.35 hours.*

22. *Mrs Adams documented in Patient 1's paper medication administration record ('MAR') that at 16.15 hours they had taken Patient 1's ketone and blood glucose levels when they had not. The blood sugar level recorded was 28.3mmol and the ketone level recorded was 0.4. The home's blood sugar machine did not have an entry for 23 November 2022 and Mrs Adams could not have used their agency issued machine because they did not have the correct test strips for it. The history for their blood glucose machine recorded no use from October 2022. The ketone and blood sugar levels were also recorded at 16.00 hours in SystmOne, an electronic patient record system. Mrs Adams further recorded in SystmOne that they had administered 22 units of Insulin to Patient 1 that afternoon when they had not.*

<u>Charges 5(a)-(c)</u>

23. *Patient 2 had Type 2 diabetes and lived in a care home ('Home 2') with no registered nurses. Home 2 had a contract with Livewell for nurses to attend twice daily for insulin administration.*

24. *Mrs Adams was scheduled, via the Agency, to visit Home 2 to administer Insulin to Patient 2 in the afternoon on 23 November 2022. That day Mrs Adams handsigned the visitor log-in sheet and recorded that they had entered the home at 15.45 hours and left at 16.00 hours.*

25. *Mrs Adams documented in Patient 2's paper MAR that at 16.00 hours they had taken Patient 2's blood glucose level and administered Insulin when they had not. They also recorded the same figure and Insulin administration in SystmOne at 15.45 hours. The blood sugar level recorded in both the paper and electronic records was 12.2mmol. Home 2's blood sugar monitor had not been used, and Mrs Adams could not have used their agency issued machine because they did not have the correct test strips for*

it. The history for their blood glucose machine recorded no use from October 2022. The time recorded in SystmOne for Patient 1 was the same as the entry for Patient 2.

Charges 6(a)-(c) and 7

26. *Patient 3 lived in their own home. They had Type 2 diabetes, for which they were prescribed 24 units of Insulin in the morning and 20 units of Insulin in the afternoon. Patient 3 had suffered from a cerebral vascular incident eight years prior, which resulted in limited cognitive understanding and capacity for self administration of own Insulin, or ability to acknowledge whether this had been administered. Mrs Adams was scheduled, via the Agency, to visit Patient 3 to administer Insulin in the morning and afternoon on 23 November 2022.*

27. *During the morning visit Mrs Adams made an entry in the paper MAR that at 16.30 hours they had checked Patient 3's glucose levels, recorded as 13.4mmols, and administered Insulin to Patient 3's left abdomen when they had not. Mrs Adams could not have used their agency issued blood glucose machine to test Patient 3's blood sugar because they did not have the correct test strips for it and its history recorded no use from October 2022. Patient 3 did not have their own blood glucose machine.*

28. *Unbeknownst to Mrs Adams, the afternoon visit had been reallocated to a colleague ('Colleague 6'). Colleague 6 attended Patient 3's home at 16.10 hours. They checked Patient 3's blood sugar levels and administered Insulin at 16.15 hours. They subsequently realised that Mrs Adams had already made an entry stating that Patient A had previously received Insulin that afternoon and flagged the potential medication error with Livewell.*

29. *Livewell investigated the potential medication error and as part of the investigation, looked at the records for the other visits Mrs Adams had been scheduled to complete that day. As part of the review, the issues with Patients 1 and 2 were identified.*

30. *During an investigation meeting with Livewell on 24 November 2022, Mrs Adams acknowledged that they had not seen Patient 3 that afternoon and had prerecorded the entries for the afternoon visit that morning to 'save time'. With reference to Patient*

1, they acknowledged that they had recorded test results despite not undertaking the required tests. They stated they had done this because they had not wanted to let anyone down and had wanted to get the work down because they knew how busy people were.

31. *On 14 October 2024, via the RCN, Mrs Adams admitted the charges in full and conceded impairment.*

Misconduct

32. *The Parties agree that the facts amount to serious professional misconduct.*

33. *The comments of Lord Clyde in Roylance v General Medical Council [1999] UKPC 16 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'.*

34. *As may the comments of Jackson J in R (Calhaem) v General Medical Council [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'.*

35. *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 ('the Code').*

36. *At all relevant times, Mrs Adams was subject to the provisions of the Code. The Code sets out the professional standards that nurses must uphold. These are the standards that patients and members of the public expect from health professionals. On the basis of the charges admitted, the Parties agree that the following provisions of the Code have been breached in this case;*

Treat people as individuals and uphold their dignity

To achieve this, you must:

1.2 *Make sure you deliver the fundamentals of care effectively*

8 Work cooperatively

To achieve this, you must:

8.2 *maintain effective communication with colleagues*

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

8.6 *share information to identify and reduce risk*

10 Keep clear and accurate records relevant to your practice

To achieve this, you must:

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*

10.3 *complete all records accurately and without any falsification…*

19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice

To achieve this, you must:

19.1 *take measures to reduce as far as possible, the likelihood of mistakes, near misses, harm and the effect of harm if it takes place.*

20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

20.2 *act with honesty and integrity at all times…*

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

37. *It is agreed that the misconduct is serious because Mrs Adams abused their position of trust to access staff records without their knowledge of consent to falsify their training records. Furthermore, they falsified patient records to indicate that they had provided care to vulnerable patients when they had not. Their actions fell far short of what would have been expected of a registered nurse.*

Impairment

38. *The Parties agree that Mrs Adams' fitness to practise is currently impaired by reason of their misconduct.*

39. *The NMC's guidance 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?"

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

41. *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.*

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

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

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

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

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

43. *It is agreed that limbs (a) to (d) can be answered in the affirmative in this case.*

Limb (a)

44. *By falsifying the training records of staff, Mrs Adams placed residents of Furzehatt at risk of harm. Colleagues 1 to 5 would not have had the relevant knowledge to have provided the vulnerable residents with the appropriate and/or quality/level of care. Colleagues 1 to 5 were also placed at risk of harm. They could have e.g., injured themselves by implementing incorrect manual handling techniques or been placed at risk of if they did not have the knowledge to appropriately manage an agitated resident with dementia. Furthermore, Sanctuary Care Ltd. would not have been able to identify or rectify their knowledge gap.*

45. *By not conducting the requisite blood tests and subsequently administering Insulin, and falsifying their records, Mrs Adams also placed Patients 1 to 3 at risk of*

harm. If Insulin is administered without taking a blood glucose reading, there is a risk that the dose administered would be too high. This could have resulted in Patients 1 to 3 going into hypoglycaemic shock, which can be fatal. An alternative course of action is required if ketone levels are too high, which would not have been identified because Mrs Adams had not completed the required testing. Prerecording medication administration presents the risk that if a nurse is subsequently unable to administer the dose on time, a colleague would not identify the missed dose, thereby again placing the patient at risk of harm.

Limbs (b) and (c)

46. Practising effectively, preserving safety, and upholding the reputation of the profession are fundamental tenets. Registered professionals occupy a position of trust and must act and promote honesty at all times. By accessing staff records without out consent and recording that they had completed training when they had not and falsely completed patient records to indicate that care had been provided when it had not, Mrs Adams has brought the reputation of the profession into disrepute and their actions demonstrate a flagrant departure from the fundamental tenets of honesty and integrity, and safe and effective practice. Their actions consequently raise questions about their professionalism and trustworthiness in the workplace.

Limb (d)

47. *Mrs Adams' actions were dishonest in that they knew Colleagues 1 to 5 had not completed the requisite training but altered their staff records to indicate they had. They also made entries in patient records to indicate that administered medication and completed tests prior to the provision of clinical care when they had not.*

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

(i) *whether the concern is easily remediable;*

(ii) *whether it has in fact been remedied; and*

(iii) *whether it is highly unlikely to be repeated.*

Limb (i)

49. *The Parties have considered the NMC's guidance entitled: Can the concern be addressed? (Reference: FTP-15a) and guidance entitled 'Serious concerns which are more difficult to put right' (FTP-3a). Both provide that some concerns are so serious that it may be less easy for the registered professional to put right the conduct or attitude concerned. Examples include breaching the professional duty of candour, including falsifying records, and being directly responsible (such as through management of a service or setting) for exposing people receiving care to harm or neglect, especially where the evidence shows the nurse placed their own priorities before their professional duty to ensure the safety of people receiving care.*

50. *Mrs Adams' falsified staff and patient records and in the case of Furzehatt, did so as the Home Manager. They, through their dishonesty, were directly responsible for placing people (colleagues and patients) at risk of harm. The Parties therefore agree that the concerns are therefore not easily remediable.*

Limbs (ii) and (iii)

51. *The Parties have considered the NMC's guidance entitled 'Has the concern been addressed?' (FTP-15b) and 'Is it highly unlikely that the conduct will be repeated?' (FTP-15c).*

52. *Mrs Adams has engaged with the NMC's proceedings. In their statement to Livewell, dated 29 November 2022, Mrs Adams wrote:*

> *'On 23rd November I was allocated to see 3 patients with insulin dependent diabetes… Throughout the day, I had mentioned on 3 separate occasions that having late pm visits made it difficult for me to ensure I would be back in time to collect my children from after school club… This was ignored so at approx.*

3.30pm I left the office to compete the last of my visits… I take responsibility for not testing the ketones, and also of pre-writing…'

53. *In a letter from the RCN dated 19 January 2023, it states:*

'Ms Adams acknowledges the seriousness of the allegations that have been made. While she will not accept all of the allegations, she does accept that her standards did fall short of what is expected of her. [PRIVATE]. *She is taking the allegations seriously, and has taken a training course in diabetes awareness to ensure and update her knowledge.'*

54. *In an email to the NMC dated 11 June 2024, Mrs Adams wrote:*

'…I have not added any further response as I have given statement upon statement of my version of events.

[PRIVATE].

I have not practiced as a nurse since being suspended and have no intention of returning to practicing in the future. [PRIVATE]'

55. *On 24 August 2024 Mrs Adams submitted an Agreed Removal application to the NMC. In this, they wrote:*

'I have decided to leave the register as since the 13th of December 2022, I have not practised as a nurse.

I am aware of the allegations made and feel that despite my statements, I have so far not had faith that I am to be believed. I therefore feel that my nursing career has come to an end. I have worked successfully as a leaning support [sic] since April 2023 and this will continue.

…During the spring of 2022, [PRIVATE]. *I knew I was in the wrong and immediately reflected upon the potential risks my action caused…*

Around Nov 2022, I supported north district cn team. [PRIVATE] *For this reason, I decided to visit patients earlier than scheduled to administer insulin.*

[PRIVATE].

Since then, I have continued to complete training in line with my profession… I accept that documentation regarding timings of administration was incorrect and I reflect on the potential risk this could have had. There is no chance of these errors of judgement repeating themselves [PRIVATE].*'*

56. *Mrs Adams has provided a training certificate in 'Diabetes Awareness', dated 14 January 2023.*

57. *The Parties agree that Mrs Adams has expressed some remorse and insight. However, it is agreed that the concerns are so serious that they are fundamentally incompatible with continued registration. Mrs Adams has been subject to an interim suspension order since 20 January 2023 and has not thus been unable to work as a nurse since. There is consequently a continuing risk to the public. A finding of impairment is therefore necessary for the protection of the public.*

Public interest impairment

58. *The Parties have also considered the comments of Cox J in Grant at paragraph 101:*

"The Committee should therefore have asked themselves not only whether the Registrant continued to present a risk to members of the public, but whether the need to uphold proper professional standards and public confidence in the Registrant and in the profession would be undermined if a finding of impairment of fitness to practise were not made in the circumstances of this case."

59. *A consideration of the public interest therefore requires the Fitness to Practise Committee to decide whether a finding of impairment is needed to maintain public confidence in the profession and to declare and uphold proper professional standards and conduct.*

60. *This case involves Mrs Adams' falsification of records i.e., dishonesty, and failure to provide requisite care to patients, which placed them at serious risk of harm. The dishonesty was directly linked to their professional practice and at least in the cases of Patients 1 to 3, involved personal gain. Their actions were antithetical to nursing duties. Such conduct in respect of vulnerable patients entrusted to the care of nurses undoubtedly undermines the public trust and confidence in nurses. The NMC is tasked by statute to declare and uphold proper professional standards. As such, the Parties agree that a finding of impairment on the grounds of public interest is required in this case.*

Sanction

61. *It is agreed that in consideration of the NMC's sanctions guidance (SAN-3e) the appropriate and proportionate sanction in this case is* ***a striking-off order.***

62. *The public interest must be at the forefront of any decision on sanction. The public interest includes the maintenance of public confidence in the profession and the declaring and upholding of proper standards of conduct and behaviour in the profession. The public interest in this case lies with maintaining public confidence in the profession and upholding proper professional standards by declaring that the registrant's behaviour was unacceptable.*

63. *Any sanction imposed must do no more than is necessary to meet the public interest and must be balanced against Mrs Adams' right to practice in their chosen career. To achieve this the panel is invited to consider each sanction in ascending order of seriousness.*

64. *The NMC's serious sanctions guidance (SAN-2) states, with reference to dishonesty:*

> *… Generally, the forms of dishonesty which are most likely to call into question whether a nurse, midwife or nursing associate should be allowed to remain on the register will involve:…*

- *misuse of power*
- *vulnerable victims*
- *direct risk to people receiving care*
- *premeditated, systematic or longstanding deception*

65. *It is agreed that these four criteria have been satisfied in this case and the case thus falls on the higher spectrum of dishonesty.*

66. *The Parties have considered the following aggravating and mitigating factors:*

Aggravating factors:

- *Sustained and premediated (SIC) dishonesty*
- *Dishonesty repeated over two separate employers*
- *Multiple patients*
- *Potential for serious harm*
- *Deep seated personality and/or attitudinal problems.*

Mitigating factors:

- *Mrs Adams has admitted the misconduct.*

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

67.1. ***Taking no action:*** *The allegations are too serious to take no further action. To achieve the NMC's overarching objective of public protection, action*

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

67.2. ***A caution order*** *is only appropriate for cases at the lower end of the spectrum. This case is not at the lower end of the spectrum because it involves behaviour that was dishonest, longstanding and in breach of trust.*

67.3. *A* ***conditions of practice order*** *would be inappropriate in the circumstances of this case. Mrs Adams' dishonesty is not linked to an identifiable area of nursing practise which requires assessment and/or retraining. Additionally, the dishonesty of Mrs Adams is a strong indication of deep-seated harmful personality problems. There are no workable, measurable, or proportionate conditions which can be formulated to address the pattern of falsifying records to make it appear that work has been completed when it has not, reflect the seriousness of the facts of this case, nor address public interest concerns.*

67.4. *A* ***suspension order*** *would be inappropriate. According to the Guidance (SAN-3d), a suspension order may be appropriate where the misconduct is not fundamentally incompatible with continued registration, there is a single isolated incident, and when the registered professional has shown insight and does not pose a significant risk of repeating the behaviour. This case does not involve a single instance of misconduct but a pattern of poor decision making, including calculated dishonesty in falsifying records in more than one context i.e., staff training and patient records, and abuse of a position of trust i.e. as a Home Manager at Furzehatt and as a lone worker with Livewell/the Agency. There is clear evidence of harmful and deep seated attitudinal and behavioural issues that cannot be addressed with sufficient insight or remorse, or training, presenting a risk of repetition. Temporary removal is insufficient to reflect the seriousness of the case.*

67.5. *A **striking-off order** is the appropriate order in this case. Honesty is of central importance to a nurse, practice. Therefore, allegations of dishonesty will always be serious and a nurse who has acted dishonestly will always be*

at some risk of being removed from the register. The behaviour giving rise to the charges falls far short of what is expected of a Registered Nurse and is fundamentally incompatible with being a registered professional. The dishonesty was repeated on multiple occasions and across two separate employers. The evidence suggests there is a deep-seated attitudinal issue present and a pattern of behaviour that cannot be easily remediated. Having reviewed the key considerations set out in the NMC guidance at SAN-3e, it is agreed that Mrs Adams' actions raise fundamental concerns about their professionalism and trustworthiness in the workplace, and the public's confidence in the profession would be undermined if they were not removed from the register. Furthermore, it is agreed that a striking-off order is the only sanction which will be sufficient to not only protect patients and members of the public, but to maintain professional standards.

Maker of allegation comments

68. On 21 October 2024 the NMC approached the referrers in these matters for comments on this agreement. To date, a response is yet to be received. If comments are received ahead of the CPD hearing, the panel will be notified.

Interim Order Consideration

69. If a finding is made that Mrs Adams' fitness to practise is impaired on a public protection basis is made and a restrictive sanction imposed, it is agreed that an interim order should be imposed on the basis that it is necessary for the protection of the public and otherwise in the public interest for the same reasons as set out above. An interim suspension order is sought for a period of 18 months so that it remains in place during the 28-day appeal period and until any appeal can be determined (in the event that one is filed).

The Parties understand that this provisional agreement cannot bind a panel, and that the final decision on findings impairment and sanction is a matter for the panel. The Parties understand that, in the event that a panel does not agree with this provisional agreement, the admissions to the charges and the agreed statement of facts set out above, may be placed before a differently constituted panel that is determining the allegation, provided that it would be relevant and fair to do so.'

Here ends the provisional CPD agreement between the NMC and Mrs Adams. The provisional CPD agreement was signed by Mrs Adams and the NMC on 24 October 2024.

Decision and reasons on the CPD

The panel decided to accept the CPD.

The panel accepted the advice of the legal assessor.

Mr Kabasinskas referred the panel to the 'NMC Sanctions Guidance' (SG) and to the 'NMC's guidance on Consensual Panel Determinations'. He reminded the panel that they could accept, amend or outright reject the provisional CPD agreement reached between the NMC and Mrs Adams. Further, the panel should consider whether the provisional CPD agreement would be in the public interest. This means that the outcome must ensure an appropriate level of public protection, maintain public confidence in the profession and the regulatory body, and declare and uphold proper standards of conduct and behaviour.

The panel noted that Mrs Adams admitted the facts of the charges. Accordingly, the panel was satisfied that the charges are found proved by way of Mrs Adams' admissions, as set out in the signed provisional CPD agreement. The panel further took into account that Mrs Adams also made local admissions of both sets of charges and does not seem to have denied the charges at any point.

Decision and reasons on impairment

The panel then went on to consider whether Mrs Adams' fitness to practise is currently impaired. Whilst acknowledging the agreement between the NMC and Mrs Adams, the panel has exercised its own independent judgement in reaching its decision on impairment.

In respect of misconduct, the panel determined that these are serious charges which relate to fundamentals of safe nursing practice. The panel took into account that this conduct falls far short of what is expected of a registered nurse. It considered that there are two sets of charges relating to two employers, and that these charges relate to a serious abuse of a position of trust.

In the panel's view, Mrs Adams' conduct failed to meet the standards set out in the following paragraphs of the NMC Code of Conduct (the Code), namely:

'1 Treat people as individuals and uphold their dignity

To achieve this, you must:

1.2 *Make sure you deliver the fundamentals of care effectively*

8 Work cooperatively

To achieve this, you must:

8.2 *maintain effective communication with colleagues*

8.7 *work with colleagues to preserve the safety of those receiving care*

8.8 *share information to identify and reduce risk*

10 Keep clear and accurate records relevant to your practice

To achieve this, you must:

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*

10.3 *complete all records accurately and without any falsification…*

19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice

To achieve this, you must:

19.1 *take measures to reduce as far as possible, the likelihood of mistakes, near misses, harm and the effect of harm if it takes place.*

20 Uphold the reputation of your profession at all times

To achieve this, you must:

20.3 *keep to and uphold the standards and values set out in the Code*

20.4 *act with honesty and integrity at all times…*

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

In this respect, the panel endorsed paragraphs 32 to 37 of the provisional CPD agreement and accepted that Mrs Adams' actions constituted professional misconduct.

The panel then considered whether Mrs Adams' fitness to practise is currently impaired by reason of her misconduct.

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.'

The panel determined that Mrs Adams' fitness to practise is currently impaired.

The panel considered the questions formulated by Dame Janet Smith and approved and applied by Cox J in the case of *Grant*. It took into account that Mrs Adams' conduct has put vulnerable patients at an unwarranted risk of serious harm, that her actions were liable to bring the nursing profession into disrepute and that her conduct has breached the fundamental tenets of nursing practice. The panel further took into account that Mrs Adams has acted dishonestly through her conduct.

There are two sets of charges relating to two different employers, which include repeated and premeditated acts of misconduct over a period of time. While the panel acknowledge that Mrs Adams has been subject to an interim suspension order since 2023, she only appears to have undertaken minimal training which might have strengthened her practice. It took into account that there was dishonest conduct which is difficult to remediate. While the panel noted that she acknowledges the seriousness of these allegations and has expressed some remorse, she has not addressed the impact upon the wider reputation of the nursing profession and colleagues. Furthermore, Mrs Adams has not acknowledged the significant risks to which patients and residents had been exposed. In light of this, the panel determined that there is a risk of repetition.

The panel concluded that a finding of current impairment is necessary on the grounds of public protection and public interest, and endorsed paragraphs 38 to 60 of the provisional CPD agreement.

Decision and reasons on sanction

Having found Mrs Adams' 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 considered the following to be aggravating features:

- Significant attitudinal problems
- A degree of premeditation
- Dishonesty
- Abuse of a position of trust
- A pattern of misconduct over a period of time involving two employers
- Conduct which put vulnerable patients at risk of suffering serious harm.

The panel also considered the following to be mitigating features:

- [PRIVATE]
- Admissions made at local level and during the regulatory process

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 Mrs Adams' practice would not be appropriate in the circumstances. The SG states that a caution order may be appropriate where *'the case is at the lower end of the spectrum of impaired fitness to practise and the panel wishes to mark that the behaviour was unacceptable and must not happen again.'* The panel considered that Mrs Adams' misconduct was not at the lower end of the spectrum and that a caution order would be

inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Mrs Adams' registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case. The misconduct identified in this case was not something that can be addressed through retraining as dishonesty is difficult to remediate. Furthermore, the panel concluded that the placing of conditions on Mrs Adams' 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; and*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The conduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel noted that the serious breach of the fundamental tenets of the profession evidenced by Mrs Adams' actions is fundamentally incompatible with Mrs Adams remaining on the register.

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

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

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

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

Furthermore, the panel determined that a striking-off order was necessary to protect the public as Mrs Adams' actions had the potential to cause significant harm.

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

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

This will be confirmed to Mrs Adams in writing.

Decision and reasons on 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 is in Mrs Adams' own interest.

The panel accepted the advice of the legal assessor.

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 agreed with the CPD 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 protect the public and meet the public interest.

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

That concludes this determination.