

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

**Substantive Hearing  
Monday, 23 September 2024 – Tuesday, 1 October 2024**

Virtual Hearing

**Name of Registrant:** **Kayleigh Margaret Jones**

**NMC PIN** 14A0902W

**Part(s) of the register:** RNMH: Mental health nurse, level 1 (19 March 2014)

**Relevant Location:** **Rhondda Cynon Taf**

**Type of case:** Misconduct

**Panel members:** Susan Thomas (Chair, Lay member)  
Shorai Dzirambe (Registrant member)  
Susan Laycock (Lay member)

**Legal Assessor:** Jayne Salt

**Hearings Coordinator:** John Kennedy

**Nursing and Midwifery Council:** Represented by Dr Raj Joshi, Case Presenter

**Miss Jones:** Not present and unrepresented

**Facts proved:** Charges 1b

**No case to answer:** Charge 1a

**Fitness to practise:** Impaired

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

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

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

At the outset of the hearing, Dr Joshi, on behalf of the Nursing and Midwifery Council (NMC), made a request that this case be held partially 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 panel noted that in written submissions from Miss Jones' dated 9 March 2024 she expressed a request that the hearing be held wholly in private.

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 hold those parts of the hearing in private where [PRIVATE]; although the rest of the hearing will be held in public.

### **Decision and reasons on service of Notice of Hearing**

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

Dr Joshi, submitted that the NMC had complied with the requirements of Rules 11 and 34 of 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 Miss Jones' right to attend, be represented and call evidence, as well as the panel's power to proceed in her absence.

In the light of all of the information available, the panel was satisfied that Miss Jones 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 Miss Jones**

The panel next considered whether it should proceed in the absence of Miss Jones. It had regard to Rule 21 and heard the submissions of Dr Joshi who invited the panel to continue in the absence of Miss Jones. He submitted that Miss Jones had voluntarily absented herself.

Dr Joshi referred the panel to the documentation from Miss Jones which included multiple emails from February to September 2024 where [PRIVATE].

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 Miss Jones. In reaching this decision, the panel has considered the submissions of Dr Joshi, the representations from Miss Jones, and the advice of the legal assessor. It has had particular 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 overall interests of justice and fairness to all parties. It noted that:

- No application for an adjournment has been made by Miss Jones;
- Miss Jones has indicated in communication with the NMC that she was aware that the process is ongoing but [PRIVATE];
- There is no reason to suppose that adjourning would secure her attendance at some future date;
- Four witnesses are scheduled to give live evidence;
- Not proceeding may inconvenience the witnesses, their employer(s) and, for those involved in clinical practice, the clients who need their professional services;
- The charges relate to events that occurred two years ago;
- Further delay may have an adverse effect on the ability of witnesses accurately to recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Miss Jones in proceeding in her absence. Although the evidence upon which the NMC relies will have been sent to her at her registered address. She will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence on her own behalf. However, in the panel's judgement, this can be mitigated. The panel can make allowance for the fact that the NMC's evidence will not be tested by cross-examination and, of its own volition, can explore any inconsistencies in the evidence which it identifies. Furthermore, the limited disadvantage is the consequence of Miss Jones' decisions to absent herself from the hearing, waive her rights to attend, and/or be represented, and to not provide evidence or make submissions on her own behalf.

In these circumstances, the panel has decided that it is fair to proceed in the absence of Miss Jones. The panel will draw no adverse inference from Miss Jones' absence in its findings of fact.

### **Details of charge**

That you, a registered nurse

1. On dates unknown failed to maintain professional boundaries with Patient A in that you
  - a. entered into a personal relationship with them whilst they were an inpatient.
  - b. after Patient A was released engaged in an intimate and/or personal relationship.

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

### **Decision and reasons on application to admit hearsay evidence of Patient A**

The panel heard an application made by Dr Joshi under Rule 31 to allow the hearsay bundle of Patient A into evidence. The NMC had not been able to obtain a signed, written statement from Patient A, as they refused to engage with the NMC or prison staff. Dr Joshi submitted that the evidence is highly relevant and though not provided to the NMC is relevant testimony of Patient A through his father, Witness 1.

The panel was of the view that, although Miss Jones had chosen not to attend this hearing, she was likely not aware at the time of making that decision, of this application to allow Patient A's hearsay testimony into evidence.

The panel heard and accepted the advice of the legal assessor. This included the relevant case law of *Thorneycroft v NMC* [2014] EWHC 1565 (Admin) and *El-Karout v NMC* [2019] EWHC 28 (Admin), as well as Rule 31 of the Rules.

The panel concluded that the material in the document entitled "*Hearsay bundle Patient A*" was not accurately described since it contained no hearsay evidence from Patient A. It consisted of, firstly, a record of a telephone call from the NMC to Witness 1 dated 5

January 2023 in which Witness 1 repeated concerns about Patient A, which were as documented elsewhere including Witness 1's statement and oral evidence. The bundle did not contain any reference to what Patient A had said about the concerns. Secondly, there is an email from a member of prison staff indicating that, due to Patient A's mistrust of prison staff, they were unlikely to engage with them regarding making a statement. Again, this contained no account of what Patient A had said about the concerns.

Since the bundle contained no hearsay evidence from Patient A and since the panel heard oral evidence from both witnesses, it decided that the content of the bundle was not relevant and so, applying Rule 31, is not admissible. In view of this, it did not consider it necessary to subject the material to the application of the principles in the case of *Thorneycroft*.

In these circumstances the panel refused the application.

### **Decision and reasons on application to admit hearsay evidence of Colleague A**

The panel heard an application made by Dr Joshi under Rule 31 to allow the '*hearsay bundle (Colleague A)*' into evidence. Despite attempts, the NMC had not been able to obtain a signed, written statement from Colleague A. Dr Joshi outlined that Colleague A was the original whistleblower in this case but that they did not want to attend the hearing or provide a signed witness statement. He further submitted that in the NMC email conversation with Colleague A they stated that they had felt pressured by Witness 2 to give evidence and were concerned about repercussions if they did attend the hearing. Dr Joshi also submitted that although Colleague A may have been pressurised to give evidence, this does not detract from what they said and does not change the context of what was said. There is no motivation for them to lie. He submitted that on this basis, it is highly relevant and fair to admit Colleague A's evidence as hearsay.

In the preparation of this hearing, the NMC had indicated to Miss Jones that it was the NMC's intention for Colleague A's evidence to be available to the panel. Despite

knowledge of the nature of the evidence to be given by Colleague A, Miss Jones made the decision not to attend this hearing. On this basis Dr Joshi advanced the argument that there was no lack of fairness to Miss Jones in allowing Colleague A's hearsay testimony into evidence.

The panel gave the application in regard to Colleague A serious consideration. The panel noted that the document titled '*Hearsay bundle (Colleague A)*' consisted of a record of a phone call between Colleague A and an officer at the NMC on 23 March 2023 along with emails between Colleague A and the same officer on other dates in March 2023. The panel considered that while this is not a signed statement it is evidence from Colleague A, who due [PRIVATE] is unable to attend this hearing.

The panel decided of its own volition to consider the handwritten notes exhibited by Witness 2 as hearsay evidence at this time, as they relate to a conversation between Colleague A and Witness 2.

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

The panel considered whether Miss Jones would be disadvantaged by allowing the hearsay testimony of Colleague A into evidence.

The panel considered that as Miss Jones had been provided with a copy of the handwritten notes of the conversation between Witness 2 and Colleague A and, as the panel had already determined that Miss Jones had chosen voluntarily to absent herself from these proceedings, she would not be in a position to cross-examine this witness in any case. There was also public interest in the issues being explored fully which supported the admission of this evidence into the proceedings. The panel considered that the unfairness in this regard worked both ways in that the NMC was deprived, as was the panel, from reliance upon the live evidence of Colleague A and the opportunity of questioning and probing that testimony. There was also public interest in the issues being explored fully which supported the admission of this evidence into the proceedings.

The panel considered the application of the test set out in *Thorneycroft* in relation to the hearsay testimony of Colleague A. The panel noted that this evidence is relevant and not the sole and decisive evidence in support of the charges and that it is consistent with other evidence before the panel. The panel considered that there has been no challenge presented to the specific contents of the note, merely the overarching denial of the charges by Miss Jones. The panel carefully considered that there is some information that Colleague A felt intimidated or otherwise pressured into giving a statement, which may have given rise to fabrication or embellishment, but that this concern could be addressed as a question of how much weight to attach as there is no direct challenge to parts being fabricated. The panel considered that the charge is very serious and any adverse finding could have a significant impact on Miss Jones. The panel considered that while it does not have any [PRIVATE], and that the NMC had made attempts to obtain their attendance, although it noted that more could have been done in terms of [PRIVATE] to ensure the attendance of Colleague A. The panel considered that it is likely Miss Jones had knowledge of the evidence of Colleague A before the hearing.

In these circumstances, the panel came to the view that it would be fair and relevant to accept into evidence the hearsay evidence of Colleague A, but would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

### **Decision and reasons on application to admit hearsay evidence of Witness 5**

The panel heard an application made by Dr Joshi under Rule 31 to allow the written statement of Witness 5 into evidence. Witness 5 was not present at this hearing. Dr Joshi submitted that Witness 5's evidence is that of responding to a disclosure request from the NMC and that they had no personal direct involvement with the case, but are acting on behalf of South Wales Police in sharing the police report with the NMC, therefore it would have been disproportionate to have them in attendance.



In the preparation of this hearing, the NMC had indicated to Miss Jones, that it was the NMC's intention for Witness 5's statement to be presented before the panel. Despite knowledge of the nature of the evidence to be given by Witness 5, Miss Jones made the decision not to attend this hearing. On this basis Dr Joshi advanced the argument that there was no lack of fairness to Miss Jones in allowing Witness 5's hearsay testimony into evidence.

The panel gave the application in regard to Witness 5 serious consideration. The panel noted that Witness 5's statement had been prepared in anticipation of being used in these proceedings and contained the paragraph, *'This statement ... is true to the best of my information, knowledge and belief'* and signed by them.

The panel considered that as Miss Jones had been provided with a copy of Witness 5's statement and, as the panel had already determined that Miss Jones had chosen voluntarily to absent herself from these proceedings, she would not be in a position to cross-examine this witness in any case. There was also public interest in the issues being explored fully which supported the admission of this evidence into the proceedings. The panel considered that the unfairness in this regard worked both ways in that the NMC was deprived, as was the panel, from reliance upon the live evidence of Witness 5 and the opportunity of questioning and probing that testimony. There was also public interest in the issues being explored fully which supported the admission of this evidence into the proceedings.

The panel considered that Witness 5's evidence is a professional report produced as a police investigation and that they are cited as a witness as they were the South Wales Police Disclosure Officer (Data Protection) who processed the disclosure request made by the NMC. The panel considered that this is an official report from the police, that is submitted in response to an approved data disclosure request. The panel considered that it is not the sole and decisive evidence, that there has been no challenge to the evidence, nor is there a suggestion of any fabrication. The panel bore in mind its findings on the seriousness of the charge as above. The panel considered that it would have been

disproportionate to call the witness to attend in person as their involvement with the case is a professional one of responding to a data disclosure request. The panel noted that this report was shared with Miss Jones before the hearing.

In these circumstances, the panel came to the view that it would be fair and relevant to accept into evidence the hearsay evidence of Witness 5, but would give what it deemed appropriate weight once the panel had heard and evaluated all the evidence before it.

### **Decision and reasons on application of no case to answer**

At the conclusion of the NMC case the panel used its powers under Rule 24(7) of the Rules to hear submissions on if there is no case to answer in respect of all charges.

Dr Joshi submitted that based on the evidence the panel has heard there is sufficient evidence to find all charges proved. He submitted that Witness 1 gave clear evidence as to there being a relationship between Miss Jones and Patient A, that Witness 1 recalled information they would not have known otherwise. Dr Joshi submitted that taken as a whole the evidence presented gives a clear picture of a developing and continuing relationship that could lead to the charges being found proved, and therefore he invited the panel to find a case to answer on all charges.

The panel took account of the submissions made and heard and accepted the advice of the legal assessor. This included reference to the Fitness to Practice Guidance DMA-6 and the case of *R v Galbraith* [1981] 1 WLR 1039.

In reaching its decision, the panel has made an initial assessment of all the evidence that had been presented to it at this stage. The panel was solely considering whether sufficient evidence had been presented, such that it could find the facts proved and whether Miss Jones had a case to answer.

The panel considered the charge in the sub-charges as set out above.

In relation to charge 1a the panel considered the dates of when Patient A was an inpatient and was satisfied that they would have come into contact with Miss Jones, who was the Ward Manager at that time. The panel considered that while there is evidence presented that Miss Jones and Patient A communicated at this time, including the possibility that Patient A had a picture of Miss Jones in his room, this evidence taken at the highest level is not sufficient to establish the existence of a personal relationship. The panel noted that an account of Miss Jones and Patient A being seen walking together or talking would not of itself have been enough to evidence a personal relationship between the two of them. The panel applied the test set out in *Galbraith* and concluded that limb 2a of the test applies, as there is some evidence but evidence which when taken at its highest could not properly result in the fact being found proved against Miss Jones. Therefore, the panel concluded that for charge 1a there is no case to answer.

In considering no case to answer for charge 1b the panel was of the view that there had been sufficient evidence, based on the accounts given by Witness 1 and Colleague A, which when taken at its highest could result in charge 1b being found proved. As such, it was not prepared, based on the evidence before it, to find no case to answer. What weight the panel gives to any evidence remains to be determined at the conclusion of all the evidence.

## **Background**

The charges arose whilst Miss Jones was employed as a registered nurse by Priory Group as Ward Manager at Ty Cwm Rhondda Hospital (the Hospital).

It is alleged that Miss Jones was in a personal and intimate relationship with Patient A, who is considered a vulnerable adult, while they were an inpatient at the Hospital and that this relationship continued after Patient A was discharged from Hospital. Patient A was remanded to custody at HMP [PRIVATE] for an unrelated incident, and was subsequently sentenced.



## **Charge 1b**

That you, a registered nurse on dates unknown failed to maintain professional boundaries with Patient A in that you after Patient A was released engaged in an intimate and/or personal relationship

### **This charge is found PROVED**

In reaching this decision, the panel took into account the written statements and oral evidence presented, along with Miss Jones written submissions.

The panel considered that Witness 1 stated in oral evidence that they had met Miss Jones at their house when she attended with her child to pick up Patient A. Witness 1 was able to recall details about Miss Jones' child, such as mannerisms, name, and description which would have been highly unlikely for them to know had Miss Jones not brought the child with her to the house. The panel considered that it would be extremely unusual for Miss Jones to have been at the house of Witness 1 if there was not some kind of relationship between her and Patient A, who was staying with Witness 1 at this time, as there was no clinical or professional reason for her to visit Patient A after their release from hospital. The panel noted that in Witness 1's evidence they stated Miss Jones had also met their partner and that Witness 1 had spoken with Miss Jones on the telephone, both when Patient A was an inpatient and after their discharge.

The panel heard from Witness 3 in oral evidence, and in Witness 4's written statement, that while he was staying at HMP [PRIVATE] Patient A added Miss Jones, and Miss Jones' child, to his list of approved visitors and that he had her phone number on his contact list. Witness 3 stated that during the safeguarding investigation they discovered that Patient A and Miss Jones used 'codenames' for each other. One of these is '*Harley Quinn*' as evidenced by Colleague A which Patient A would call Miss Jones. The panel

noted that there was also a 'Harley Pearce' on Patient A's prison approved phone numbers.

The panel considered that this evidence was supported by different witnesses and corroborated by the hearsay statements. While attaching less weight to the hearsay evidence the panel felt that they were able to confirm what was said in oral evidence and that they presented a consistent narrative of events.

The panel further considered that in the police report Patient A denies being in a relationship with Miss Jones:

*'On Friday 12<sup>th</sup> August [sic], officers spoke with Patient A and the allegation and concern which had been reported by his father was explained to him.*

*Patient A told the officers that he has not had a relationship with [Miss Jones] and does not have anything to say about the matter...'*

In her written submissions Miss Jones stated that she was not in a sexual or personal relationship with Patient A, and that she may have spoken with Witness 1 in Cardiff one day when out with her child.

The panel noted that there are suggestions in the safeguarding report that Miss Jones had been blackmailed by Patient A as indicated in the notes of Witness 2's meeting with Colleague A. This suggested that Miss Jones was paying money to Patient A via a third-party, so that it would not be traceable back to her. Additionally, the panel noted that in the safeguarding meeting minutes the prison staff stated Patient A had received sums of money from a third-party. The panel also noted that Witness 2 stated when Patient A was released from prison he called the Hospital in an attempt to obtain Miss Jones' contact information.

The panel considered the account by Miss Jones to be less likely than that given by Witness 1 given the amount of detail and personal information Witness 1 knew about Miss Jones. The panel preferred the evidence of Witness 1 that Miss Jones and her child had attended their house with Patient A. The panel noted Witness 1's deep concern about the presence of Miss Jones' child and their contact with Patient A at what Witness 1 considered to be an early stage in the relationship. On balance the panel preferred Witness 1's account because of the consistency throughout their evidence and their anxiety about the child appeared plausible.

The panel considered that this charge has two clauses, '*intimate and/or personal relationship...*' In considering the evidence the panel concluded that there is no direct information to support that Miss Jones and Patient A had an intimate or sexual relationship, other than the suspicions of Witness 1, based on what they had been told by Patient A. Therefore, the panel decided it was unable to find the first clause proved. However, the panel was satisfied that given the evidence there was a personal relationship between Miss Jones and Patient A which breached professional boundaries and occurred after he was discharged from the Hospital. Therefore, the panel found this charge proved on the second clause, and was satisfied that there had been a personal relationship between Miss Jones and Patient A which breached professional boundaries.

### **Fitness to practise**

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether Miss Jones' 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 determined whether the facts found proved amount to misconduct. Secondly, only if the facts found proved amount to misconduct, the panel decided whether, in all the circumstances, Miss Jones' fitness to practise is currently impaired as a result of that misconduct.

### **Submissions on misconduct**

In coming to its decision, the panel had regard 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.*'

Dr Joshi invited the panel to take the view that the facts found proved amount to serious 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.

Dr Joshi identified the specific, relevant standards where Miss Jones' actions amounted to misconduct. He submitted that Miss Jones actions breached professional boundaries and were a breach of the fundamental tenets of nursing practice. He submitted that this amounts to serious misconduct.

### **Submissions on impairment**

Dr Joshi 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).

Dr Joshi submitted that Miss Jones' actions in forming a personal relationship with Patient A continued over a prolonged period of time and was not a singular or isolated incident of breaching professional boundaries. He submitted that this repetition increases the risk of harm being caused to Patient A. He submitted that since it is likely that Miss Jones and Patient A only met when they were in hospital that there is an inherent power imbalance in the relationship and that Miss Jones abused her position of trust and power.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Cohen v General Medical Council* [2008] EWHC 581 (Admin), and *R (on the application of Remedy UK Ltd) v General Medical Council* [2010] EWHC 1245 (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 Miss Jones' actions did fall significantly short of the standards expected of a registered nurse, and that Miss Jones' actions amounted to a breach of the Code. Specifically:

*'1.1 treat people with kindness, respect and compassion*

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

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

*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'*

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 the relationship took place over several months and involved multiple visits of Miss Jones to Witness 1's residence where Patient A was living after his discharge from hospital. The panel concluded that there is a serious concern because this was not a singular or isolated incident of breaching professional boundaries. The panel also considered that this is suggestive of a serious attitudinal concern.

The panel found that Miss Jones' 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, Miss Jones's fitness to practise is currently impaired.

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

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

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

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

Nurses occupy a position of privilege and trust in society and are expected at all times to be professional 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. Nurses 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) ...'

The panel finds that Patient A was put at risk of emotional harm as a result of Miss Jones' misconduct. The panel considered that limbs *a*, *b*, and *c* of *Grant* are engaged in this case. Regarding limb *a* the panel noted that while the relationship was after Patient A was discharged from hospital there was still a serious abuse of power as they met while Patient A was under the care of Miss Jones, and Patient A continued to access other healthcare services after leaving hospital. The panel considered that given the attitudinal concerns it is possible that if presented with a similar situation in the future, patients may be liable to come to harm. The panel considered that limbs *b* and *c* are engaged as Miss Jones' misconduct had breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

The panel considered that the misconduct identified in this case is difficult to remediate. The panel noted that there has been no insight or remorse shown by Miss Jones or how her actions will have impacted Patient A, their family, and her colleagues in the wider nursing profession. The panel considered that while Miss Jones has denied the charge it would have been possible for her to reflect on the situation and how she might act differently in the future should a similar situation arise. The panel noted that attitudinal concerns are more difficult to address than clinical concerns and therefore this will be significantly difficult to address.

The panel considered that Patient A was a vulnerable person who had received care from Miss Jones while in the Hospital, and that by forming a personal relationship after his discharge Miss Jones displayed an abuse of her position of trust and power as Ward Manager.

The panel is of the view that there is a risk of repetition as the relationship continued over a period of several months and was not a single act of misconduct. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel determined that a finding of impairment on public interest grounds is required as by Miss Jones breaching the fundamental tenets of the nursing profession, a reasonable member of the public would be concerned if she was not found to be impaired and this may impact on people seeking medical treatment if required.

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

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

## **Sanction**

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

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

## **Submissions on sanction**

Dr Joshi informed the panel that in the Notice of Hearing, dated 12 August 2024, the NMC had advised Miss Jones that it would seek the imposition of a striking-off order if it found Miss Jones's fitness to practise currently impaired. He submitted that this remains the appropriate sanction and outlined a number of features of the misconduct that indicate a striking-off order is the only appropriate sanction.

## **Decision and reasons on sanction**

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

The panel took into account the following aggravating features:

- Abuse of a position of trust and power
- Lack of insight into failings
- A pattern of misconduct over a period of time
- Conduct which put former patients at risk of suffering harm
- Vulnerability of Patient A
- Shared information about the relationship with Colleague A

The panel considered that there were no mitigating features in this case.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to take no further action.

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

The panel next considered whether placing conditions of practice on Miss Jones' 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 attitudinal concern identified in this case was not something that can be addressed through retraining. Furthermore, the panel concluded that the placing of conditions on Miss Jones' registration would not adequately address the seriousness of this case and would not protect the public.

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

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The panel considered that none of these features were present in this case. The panel concluded that:

- There had not been a single incident of misconduct
- There was no evidence of insight or reflection
- There were attitudinal concerns
- There was a potential future risk to patients

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 Miss Jones' actions is fundamentally incompatible with Miss Jones 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?*

Miss Jones' actions were 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 Miss



Jones' actions were serious and to allow her to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

The panel had regard to the sections in the SG on 'Cases Involving Sexual Misconduct' and 'Abuse or Neglect of ...Vulnerable People'. Whilst these were not directly relevant, in that the panel had concluded that there was a personal relationship rather than an intimate relationship and secondly, that Miss Jones was no longer providing care to Patient A at the time of the relationship, the panel concluded that some elements of this guidance were relevant. In particular, the panel concluded that Miss Jones had abused a position of trust in that she had provided medical care to Patient A when he was an inpatient and she was the Ward Manager. Furthermore, it concluded that Patient A was a vulnerable adult who had continued to access medical treatment once discharged from Miss Jones' care at the hospital. The panel considered that there had been potential for emotional harm to Patient A as a consequence of the relationship. The panel noted that where a registered nurse is found to have behaved inappropriately in these ways, the SG states that they '*will be at risk of being removed from 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 Miss Jones' 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 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 Miss Jones in writing.

### **Interim order**

As the striking-off order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Miss Jones' own interests until the striking-off sanction takes effect. The panel heard and accepted the advice of the legal assessor.

### **Submissions on interim order**

The panel took account of the submissions made by Dr Joshi. He submitted that an interim suspension order is necessary for 18 months to provide for the public protection during any appeal.

### **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 provide for the public protection during any appeal period.

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

That concludes this determination.