

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

**Substantive Hearing
Tuesday, 17 September – Tuesday, 24 September 2024**

Virtual Hearing

Name of Registrant:	Kahyana Emari Davis
NMC PIN	21A1556E
Part(s) of the register:	Registered Midwife - Sub Part 1 RM: Midwife - 29 April 2022
Relevant Location:	Bristol
Type of case:	Misconduct
Panel members:	Simon Banton (Chair, Lay member) Vicki Harris (Lay member) Rachel Jokhi (Registrant member)
Legal Assessor:	Joseph Magee
Hearings Coordinator:	Margia Patwary
Nursing and Midwifery Council:	Represented by Rebecca Steels, Case Presenter
Miss Davis:	Present and unrepresented at the hearing
Facts proved by admission:	All charges
Fitness to practise:	Impaired
Sanction:	Suspension order with a review (12 months)
Interim order:	Interim suspension order (18 months)

Details of charge

That you, a Registered Midwife:

1. On 1 December 2022 in relation to Baby A:
 - a) Failed to administer the following medications:
 - i) Diazoxide at 16:00 hours. **[PROVED BY ADMISSION]**
 - ii) Chlorothiazide at 18:00 hours. **[PROVED BY ADMISSION]**
 - b) Failed to take two blood glucose readings. **[PROVED BY ADMISSION]**
 - c) Signed your initials on the drug chart to indicate you had administered medication in respect of Baby A at 16:00 and 18:00 hours when you had not. **[PROVED BY ADMISSION]**
 - d) Signed Colleague A's initials on the drug chart to indicate they had witnessed you administer medication in respect of Baby A at 16:00 and 18:00 hours when they had not. **[PROVED BY ADMISSION]**
 - e) Recorded two blood glucose readings on the observation chart when the readings had not been taken. **[PROVED BY ADMISSION]**
2. Your actions in charge 1 c) and/or d) were dishonest in that you sought to represent you had administered drugs to Baby A in accordance with the Trust's policy when you had not. **[PROVED BY ADMISSION]**
3. Your actions in charge 1 e) were dishonest in that you sought to represent you had taken Baby A's blood glucose readings when you had not. **[PROVED BY ADMISSION]**

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

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

At the outset of the hearing, Ms Steels made a request that this case be held partially in private on the basis that proper exploration of your case involves reference [PRIVATE]. The application was made pursuant to Rule 19 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

You did not oppose the application.

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.

Having heard that there will be reference to [PRIVATE], the panel determined to hold parts of the hearing in private in order to preserve the confidential nature of those matters.

Background

The charges arose whilst you were employed for 6 months at Southmead Hospital (the Hospital) when you were working as a Band 5 Midwife on the Neonatal Intensive Care Unit ('NICU').

The regulatory concerns were as follows on 1 December 2022:

- Record keeping concerns – in that you:
 - Added a colleague's signature and/or initials to a patient record as the second checker.
 - Recorded two blood sugar results that had not been taken.

- Poor medication practice – in that you:
 - Did not take blood glucose readings that you had recorded as having been taken.
 - Failed to administer prescribed medications.

- Dishonesty – in that one or more of your actions above were done to create a misleading impression that you had followed the correct procedures and/or completed your duties on shift when you knew that you had not.

You were suspended from the Trust on 8 December 2022 while an internal investigation was conducted into the concerns.

A disciplinary hearing took place on 8 March 2023, and you were dismissed on the grounds of misconduct.

Decision and reasons on facts

At the outset of the hearing, you informed the panel that you made full admissions to all charges.

The panel therefore finds all the charges proved in their entirety, by way of your admissions.

The panel heard and accepted the advice of the legal assessor. It considered the witness and documentary evidence provided by the NMC and submissions from you and the NMC.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved amount to misconduct and, if so, whether your fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's suitability to remain on the register unrestricted.

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

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

Submissions on misconduct and impairment

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.*'

Ms Steels invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015' (the Code). She submitted that your actions amounted to breaches of the Code and fell short of the standards expected of a registered midwife.

Ms Steels submitted that there has been a significant departure by you from the standards expected of a registered [midwife] and that the proven conduct amounts to misconduct. She submitted that dishonesty is always serious and further that the conduct committed by you falls far short of the standards considered appropriate for the profession.

Ms Steels' written submissions included the following:

Ms Davis' conduct was exacerbated by her falsification of records to give the impression that the medication (Diazoxide at 16:00 and Chlorothiazide at 18:00) had been given, and the blood glucose readings taken at 09:00 and 17:00. The risk of harm to the child was therefore heightened given that any nurse or doctor looking at the charts completed by Ms Davis would think that Baby A had been given the medication and would think the glucose readings were as recorded. This could impede the ability to safely and effectively treat Baby A as anyone treating the baby would be doing so on the basis of inaccurate information. This may impede the ability to ensure the correct treatment is given going forward.

Dishonesty is always serious. Ms Davis not only dishonestly entered records pertaining to herself – falsely recording that she had administered medication and measured the blood glucose levels. She also falsified the signature of a colleague – HC – to cover up her failure to give Baby A the requisite medication, and suggest she had done so in accordance with hospital procedures as per the policy produced as FB/3. This could wrongly implicate her colleague in the failure to give Baby A the required medication. It also demonstrates that the failure to give the medication was not simply a one-off error or mistake; rather, Ms Davis then took the conscious, deliberate decision to cover up her failure by falsifying the record.

Ms Steels addressed the panel on the issue of impairment and reminded the panel 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.

Ms Steels submitted that all four limbs of the test in *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant [2011] EWHC 927 (Admin)* are engaged in your case. She submitted that you put Baby A at unwarranted risk of harm, failed to administer the required medication or appropriately monitor Baby A's glucose levels, and further, falsified records to attempt to cover up these failings. She submitted that this placed Baby A at risk of significant harm given you did not treat the baby as required or accurately monitor Baby A, but also acted so as to potentially cause others to treat the baby on the basis of inaccurate information. Further, she submitted that your actions could have caused great harm to Baby A and may have impacted on Baby A's treatment.

Ms Steels submitted that although you have engaged with the regulatory proceedings, you have some reflection into your misconduct, nevertheless you have limited and partial insight. Further, your clinical concerns have not been remediated and no training has been undertaken. [PRIVATE]. As such, she submitted there remains a risk of repetition.

In light of the above, Ms Steels submitted that a finding of impairment is appropriate in this case on both public protection and public interest grounds.

You provided the panel with written submissions and summarised your submissions orally.

You stated that your time away from the profession has allowed you a safe space to reflect upon your poor judgement and decision making on the day the incidents occurred. You stated that you understand the severity of your actions.

You stated that you take full accountability for your actions and do not excuse or justify the severity of the potential outcome as a result of your actions.

You told the panel that it should consider the context in how the incident occurred.

[PRIVATE]. You told the panel there were no previous concerns raised in your practice.

You told the panel that you would like to start by sincerely apologising to the family and for the potential risk imposed by your careless behaviour. Further, you want to apologise to the staff who rely on the integrity of your practice to care for Baby A and the impact it had caused them.

You told the panel you feel remorse in your dishonest conduct and that you feel ashamed and embarrassed in your lack of professionalism. You said that you can now see you could have taken an alternative route to avoid the incident.

...[PRIVATE]...

You told the panel that regrettably, you had not kept up to date with your record keeping at the time of the incident. This led you to *“play catch up with uncompleted paperwork at the end of the shift”*. [PRIVATE]. You stated that you made a poor decision to use your handover sheet with earlier recorded patient information and in sudden poor judgement you copied similar recordings into Baby A’s patient notes.

In relation to your misconduct, you submitted that you accept the dishonesty allegations the NMC have raised against you.

You told the panel that you understand that a member of the public reading these charges, may lose faith in the profession in that a nurse was dishonest. However, in providing context of the events, [PRIVATE] were the reason which led to your poor judgement and thoughtless actions.

You told the panel that you have engaged and cooperated with internal and external investigations in which you have remained open and honest. [PRIVATE].

You stated by your own [admission], you believe you have demonstrated transparency by taking accountability of the poor choices that led to your dishonest conduct and your record keeping. However, you do not believe your actions were deliberately intended to conceal an error.

You told the panel that at no point did you consciously aim to deceive, nor did you intend to deliberately mislead anyone. You stated that you also did not intend to misuse your power, intend direct risk to Baby A, or implicate your colleague as you did not gain anything from this.

In regard to impairment, you stated that you understand the charges state that your fitness to practise is impaired by acting in a dishonest way. However, to some degree you believe it is unfair to propose that your practise is currently impaired as this was an isolated event.

...[PRIVATE]...

You stated that it is important to take accountability of your actions in relation to your practise which will allow you to provide quality care to patients and uphold the reputation of your midwifery role.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin), *Ronald Jack Cohen v General Medical Council* [2008] EWHC 581 (Admin) and *General Medical Council v Meadow* [2007] QB 462 (Admin).

Decision and reasons on misconduct

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

The panel was of the view that your actions did fall significantly short of the standards expected of a registered midwife, and that your actions amounted to a breach of the Code. Specifically:

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

1.4 Make sure that any treatment, assistance or care for which you are responsible is delivered without undue delay

8 Work co-operatively

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

10.1 Complete 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 records accurately and without any falsification, taking immediate and appropriate action if you become aware that someone has not kept to these requirements

20 Uphold the reputation of your profession at all times

20.1 Keep to and uphold the standards and values set out in the Code

20.2 Act with honesty and integrity at all times, treating people fairly and without discrimination, bullying or harassment

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel found that your failures in the administration of medicine and taking glucose readings and your subsequent dishonesty put a vulnerable patient at a risk of harm.

The panel had regard to the fact that you were in a position of significant trust. You were responsible for very vulnerable patients who required significant monitoring and frequent medical interventions including the timely administration of medicines. These were all necessary for the safe treatment of Baby A. Having failed to discharge your clinical duties you proceeded to act dishonestly by falsifying records, which included implicating one of your colleagues. This dishonesty in seeking to hide your failures was extremely serious and further jeopardised the safety of Baby A. Your actions breached fundamental tenets of the profession. Your conduct in falsifying medical records, and failure to conduct routine checks and medicine administration placed Baby A at significant risk of harm. Moreover, your failings occurred throughout your shift and were not isolated incidents.

Therefore, the panel found that your actions did fall far short of the conduct and standards expected of a midwife and amounted to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, your fitness to practise is currently impaired.

In reaching this 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.'

Midwives 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 midwives with their lives and the lives of their loved ones. To justify that trust, midwives must be honest and open and act with integrity. They must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

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

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

undermined if a finding of impairment were not made in the particular circumstances.'

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

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

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

The panel found all four limbs of the Grant test engaged.

The panel finds that a vulnerable patient was put at risk and could have been caused physical harm as a result of your misconduct. Your misconduct breached the fundamental tenets of the midwifery profession and therefore brought it into disrepute. It was satisfied that confidence in the profession would be undermined if its Regulator did not find charges relating to dishonesty extremely serious.

Regarding insight, the panel considered that you eventually made full admissions and have engaged with the NMC throughout the proceedings. However, the panel determined that your insight into your misconduct is limited in that you did not demonstrate an understanding of how your failures and dishonesty would have impacted not only on Baby A, but also on their family and former colleagues.

As to the dishonesty aspects in this case, the panel was concerned by the conjunction of your admissions to dishonesty and falsifications of the records with your submissions that *“at no point did I consciously aim to deceive. At no point did I intend to deliberately mislead”*. This made it clear to the panel that your insight is limited in that you have attempted to distance yourself from your dishonest actions and minimise your responsibility.

The panel carefully considered the evidence before it in determining whether or not you have taken steps to strengthen your practice. [PRIVATE]. The panel did not have any further evidence before it to determine whether you have addressed the areas of concern to avoid a repetition of the misconduct. As such, the panel determined that there is a real risk of repetition.

For all of the reasons above, the panel decided that a finding of impairment is necessary on the grounds of public protection.

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

The panel determined that a finding of impairment on public interest grounds is required because public confidence in the profession would be undermined if a finding of impairment were not made in this case and therefore also finds your fitness to practise

impaired on the grounds of public interest. The panel considered that the public interest in upholding the confidence in the midwifery profession would be seriously undermined if this dishonest midwife was not considered impaired.

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

Sanction

The panel has considered this case very carefully and has decided to make a suspension order for a period of 12 months. The effect of this order is that the NMC register will show that your registration has been suspended.

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

Submissions on sanction

Ms Steels submitted that the NMC propose a sanction of a suspension order for a period of 6 months for your case.

Ms Steels outlined the mitigating and aggravating features in your case.

Ms Steels submitted that a suspension order is appropriate, proportionate and necessary in this case for the following reasons:

'The concerns raised by this case are serious with Ms Davis' misconduct contravening the fundamental tenets of the nursing profession. She failed to effectively treat a patient, Baby A, putting the baby at unwarranted risk of harm, and failed to act with openness and honesty. This breach of the fundamental tenets of

the profession is particularly problematic given the trust and confidence placed in those in Ms Davis' position – members of the public and parents expecting appropriate care to be given to premature and very unwell babies – babies who are especially vulnerable and who have no voice of their own. The conduct will negatively impact the public's trust and confidence in the nursing profession. As such, a serious sanction is required to mark this.

The panel in its determination so far has considered that Ms Davis' insight and reflection is partial and limited at this stage. The panel has determined that Ms Davis has not shown an understanding of the impact of her conduct on Baby A's family and her colleagues, and has attempted to distance herself from her dishonest actions and minimise her responsibility. The panel may consider Ms Davis needs time for this to fully develop before she can return to safe and effective practice and that a period of suspension would provide this time. This will further the protection of the public, as it is only once Ms Davis' insight is full that the Panel can safely conclude there to be no risk of repetition of the conduct.

[PRIVATE]

As is made clear in the NMC's Guidance SAN-2 – "Honesty is of central importance to a nurse, midwife or nursing associate's practice. Therefore, allegations of dishonesty will always be serious." Given Ms Davis' misconduct included falsifying records in order to cover up her failures to administer medication and monitor Baby A's blood glucose levels, the dishonesty this involves does warrant the serious sanction of suspension.

It is submitted that a Suspension Order would be appropriate and proportionate in this case. The Guidance (SAN-3d) states this, "may be appropriate in cases where the misconduct isn't fundamentally incompatible with the nurse, midwife or nursing associate continuing to be a registered professional, and our overarching objective may be satisfied by a less severe outcome than permanent removal from the

register". Considering the factors in the Guidance which assist in considering whether a period of suspension would be sufficient to protect public confidence and uphold professional standards, it is submitted that the proven allegations evidence a single period of misconduct whereby the misconduct all occurred on one day, but the seriousness of it means a lesser sanction is not sufficient. Whilst dishonesty is an attitudinal issue, it is submitted that it is not necessarily the case here that this is deep-seated; rather Ms Davis' dishonesty occurred as a one-off behaviour [PRIVATE]... This renders it serious enough to merit a Suspension Order, and the public would expect charges such as these to be met with a severe sanction; however no more severe sanction would be proportionate or necessary.'

Ms Steels addressed each of the sanctions available before the panel. She submitted that it would not be appropriate either to take no action or to impose a caution order, given the seriousness of this case and the public protection concerns which the panel identified in its decision on misconduct and impairment.

Ms Steels submitted that a conditions of practice order would not be an appropriate order. She submitted that whilst some of the concerns raised relate to clinical practice, your dishonesty in attempting to cover up your failures indicate an attitudinal failing also. She submitted it may be difficult to conceive of appropriate and workable conditions which could be applied which would act to address public confidence and professional standards issues. Further, she submitted that a conditions practice order would not protect the public in maintaining confidence or the professional standards given the nature of the proven allegations and your need to develop full insight, and therefore such an order would not be the appropriate sanction.

Ms Steels submitted that a striking-off order would not be appropriate or proportionate in this case. She referred the panel to the Sanctions Guidance (SAN-3e) which identifies some considerations which the panel ought to take into account when considering a striking-off order. She submitted that the factors outlined in the NMC guidance on striking-off orders are not applicable in this case, and it was not the case that your conduct on that

day was necessarily incompatible with remaining on the register. Consequently, she submitted it would be disproportionate to impose a striking-off order..

Ms Steels invited the panel to impose a suspension order for a period of 6 months with a review.

You stated that in considering the different types of sanctions that can be imposed upon your admission to the charges, a conditions of practice order would be sufficient and appropriate in your case.

You stated that you cannot oppose the NMC's stance on dishonesty. You told the panel that you hope your admission to the charges demonstrates that you can be truthful, honest and transparent, despite the probable discredit to yourself.

...[PRIVATE]...

You stated that although you do not try to excuse or justify your many failings in behaviour during the time of the incident. It was one-off incident with no prior raised concerns regarding your practice which demonstrates your ability of providing safe and effective care outside of your mitigating circumstances. You told the panel that this was not a conscious attitudinal behaviour that developed over a period of time or a repetitive trend in your practice. However, it was a sudden lapse in judgement which resulted in your out of character behaviour. You also submitted that you do not have enduring attitudinal issues and that in your view, attitudes can be worked on and changed.

You told the panel that one of the reasons you made admission to the charges was to prevent putting your former colleagues through unnecessary questioning during witness evidence. You stated that at no point did you consciously aim to deceive, nor did you intend to deliberately mislead. You told the panel that you were not calculated in your actions or planned them in order to "*get away with it*". You stated that from the beginning you stated that the accounts you gave in regards to the incident "*was the best of my*

memory". You stated that you were aware that responsibility for Baby A was yours alone.
[PRIVATE].

[PRIVATE]. You stated that you are currently not working in a healthcare setting and have had a limited chance to address the concerns in your practice. You told the panel that this also affected you working as a midwife under the terms of your previous interim order and did not allow you to demonstrate your ability to make progress.

[PRIVATE]. You further stated that you would be in a position to inform your future employer about the sanctions to which you must adhere.

[PRIVATE]. You stated although it is not impossible to gain employment with a conditions of practice order, it does make gaining employment difficult.

You invited the panel to impose a condition of practice order which would allow you to seek retraining in areas of your practice such as medicine management and assist in "*developing full insight (under safe conditions)*". You stated this would allow you to maintain public confidence which sends out a message that people can learn from their mistakes. It also allows the practitioner the opportunity to demonstrate their ability to uphold professional standards.

Decision and reasons on sanction

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

The panel took into account the following aggravating features:

- Your failure to acknowledge in your submissions that your dishonest conduct was deliberate and misleading.
- Your actions put a vulnerable patient at risk of physical harm.
- Risk of repetition.
- Lack of remediation.
- Limited and partial insight.

The panel also took into account the following mitigating features:

- [PRIVATE]:
 - [PRIVATE].
 - [PRIVATE].
- Your admissions to all the charges at the outset of the hearing.
- You qualified as a midwife in July 2021 and had had a period away from midwifery practice until July 2022. You had only been working for six months as a qualified midwife in the neonatal unit at the time of the incident.
- This is the first and only referral to the NMC.

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

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

The panel next considered whether placing conditions of practice on your registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel considered that there are no practical or workable conditions to address the issues that could be formulated, given the nature of the charges in this case. The misconduct identified in this case includes dishonesty, which is not something that could be readily addressed through a conditions of practice order.

Furthermore, the panel concluded that the placing of conditions on your registration would not adequately address the seriousness of this case and would not protect the public nor meet the requirement for public confidence in the profession.

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;*
- ...
- ...
-

When considering the above factors, the panel was of the view that there were concerns in regards to your clinical practice and dishonesty. The panel noted that allegations of dishonesty are always serious, and your misconduct included you falsifying records in order to cover up your failures to administer medication and monitor Baby A's blood glucose levels as well as falsifying a colleague's initials. The panel also considered its findings on your current impairment, and it determined that your dishonesty occurred as a one-off behaviour ...[PRIVATE]. Further, the panel considered that, at this stage, you continued to demonstrate a material lack of insight, and consequently, there is a significant risk of repeating behaviour.

The panel went on to consider whether a striking-off order would be proportionate. The panel had regard of the NMC Guidance on striking-off order (SAN-3e), which asked the panel to consider the following factors:

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

In considering the above factors, the panel was satisfied that your misconduct, whilst it is serious was a one-off event, and does not raise fundamental questions about your

professionalism. It considered that public confidence in nurses and midwives could be maintained with a period of suspension, and the public confidence does not necessitate you being struck off from the register. Accordingly, the panel was satisfied that a suspension order could adequately protect patients, members of the public and maintain professional standards, and a striking-off order is not the only sanction which could address these concerns identified.

The panel was satisfied that the misconduct was not fundamentally incompatible with remaining on the register, and the case, in all its circumstances, did not meet the high threshold for a striking-off order for the following reasons:

- The panel has identified some insight, albeit very limited;
- The failings are remediable; and
- A suspension order could adequately protect patients, members of the public and maintain professional standards.

As a result, the panel determined that the imposition of a striking-off order would be disproportionate in this case.

Balancing all of these factors the panel has concluded that a suspension order would be the appropriate and proportionate sanction.

The panel noted the hardship such an order will inevitably cause you. However this is outweighed by the public interest in this case.

The panel considered that this order is 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 midwife.

The panel determined that a suspension order for a period of up to 12 months was appropriate in this case to mark the seriousness of the misconduct [PRIVATE] would allow you adequate time to develop and remediate your misconduct.

At the end of the period of suspension, another panel will review the order. At the review hearing the panel may revoke the order, or it may confirm the order, or it may replace the order with another order.

Any future panel reviewing this case would be assisted by:

- Evidence that you have refreshed your professional knowledge and completed training surrounding the clinical practice concerns, including medicine administrations and record keeping, raised against you;
- Two separate reflective pieces:
 - The first is to address matters relating to your personal misconduct in this case. It must examine the implications of your dishonesty and how that affected you, Baby A and its relatives, and your colleagues.
 - [PRIVATE]; and
- Any further steps you have taken to strengthen your practice.

This will be confirmed to you in writing.

Interim order

As the suspension order cannot take effect until the end of the 28-day appeal period, the panel has considered whether an interim order is required in the specific circumstances of this case. It may only make an interim order if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in your own interests until the suspension 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 Ms Steels. She submitted an interim suspension order for a period of 18 months was necessary to cover any potential period of appeal.

You made no submissions in respect of this application.

Decision and reasons on interim order

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

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

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

That concludes this determination.