Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Meeting
Monday, 9 September 2024 – Thursday, 12 September 2024

Virtual Meeting

Name of Registrant:	**Helen Annette Jones**
NMC PIN	14I0008W
Part(s) of the register:	Registered Nurse – RNA, Adult Nurse (September 2014)
Relevant Location:	Wrexham
Type of case:	Misconduct
Panel members:	Gregory Hammond (Chair, lay member) Sharon Peat (Registrant member) Nicola Strother Smith (Lay member)
Legal Assessor:	Robin Hay
Hearings Coordinator:	Muminah Hussain
Facts proved:	Charges 1(a), 1(c), 1(d)(iii), 1(e), 1(f), 1(g) &1(h)
Facts not proved:	Charge 1(d)(i)
Facts fallen:	Charges 1(b) & 1(d)(ii)
Fitness to practise:	Impaired
Sanction:	**Striking-off order**
Interim order:	**Interim suspension order (18 months)**

Decision and reasons on service of Notice of Meeting

The panel was informed at the start of this meeting that the Notice of Meeting had been sent to Miss Jones's registered email address by secure email on 11 July 2024.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, and the fact that this meeting would be held virtually on or after 29 August 2024.

The panel was satisfied from the documentation before it that Miss Jones has been served with notice of this meeting in accordance with the requirements of Rules 11A and 34 of the 'Nursing and Midwifery Council (Fitness to Practise) Rules 2004', as amended (the Rules).

Details of charge

That you, a registered nurse,

1. On 30 January 2022,

    a. In relation to patient A, moved the call bell out of reach.

    b. Did not carry out patient observations for the patients listed in schedule 1.

    c. Did not sign patient B's MAR chart for Co-Beneldopa, at the time it was due.

    d. Did not administer:

        i. Intravenous antibiotics to patient C.
        ii. Clexane injections to patients listed in schedule 1.
        iii. Longtec to patient A.

    e. Inaccurately documented patient records by signing as both first and second checker for the administration of medication.

f. Your actions at charge 1(e) were dishonest in that you intentionally falsified the second checker signature in patient records with the intention that any subsequent reader would believe the signature to be accurate.

g. Inaccurately documented in patient records that you had completed patient observations when you had not.

h. Your actions at charge 1(g) were dishonest in that you intentionally falsified patient records with the intention that any subsequent reader would believe the records to be accurate.

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

Schedule 1:

1) Patient B
2) Patient A
3) Patient D
4) Patient E
5) Patient F
6) Patient G
7) Patient H
8) Patient C
9) Patient I

Background

Miss Jones was employed at Wrexham Maelor Hospital (the Hospital) as a Band 5 registered nurse from 12 October 2014 until 16 May 2022. She was anonymously referred to the NMC on 3 February 2022.

The referral raised concerns about Miss Jones's failures in patient observations, poor medication practice, record keeping and dishonesty, whilst on shift on 30 January 2022. The concerns were also raised internally by staff working with Miss Jones in a meeting on 9 February 2022.

On 30 January 2022, Miss Jones was responsible for the care of eight or nine patients. It was noted that the observations she recorded on the patient charts did not match those in the memory of the observation machines which reflected the observations recorded and documented by staff on the previous shift. The suggestion was that Miss Jones had not taken observations and instead had falsified the records.

It was noted that Miss Jones had moved a call bell out of reach from a patient who had been pressing the bell repeatedly that morning.

During the shift on 30 January 2022, IV antibiotics and controlled drugs were signed for as administered by Miss Jones. These were countersigned with a signature not recognised as belonging to any other nurse on the unit. No entry was made in the unit's-controlled drug book for the controlled drugs being taken out for administration, nor was there an entry in the patient's own controlled drug book brought in with them on admission. Miss Jones was not seen preparing or administering Clexane injections.

Miss Jones has not engaged with the NMC investigation or provided a response to the regulatory concerns raised.

Decision and reasons on facts

In reaching its decisions, the panel considered all the documentary evidence before it.

The panel accepted the advice of the legal assessor.

The panel was aware that the burden of proof rests on the NMC, and that the standard of proof is the civil standard, namely the balance of probabilities, that is whether something is more likely than not.

The panel had regard to the written statements of the following witnesses on behalf of the NMC:

- Witness 1: Band 4 Assistant Practitioner / Health Care Assistant at the Hospital (at the time of the incidents)
- Witness 2: Nursing Auxiliary / Health Care Assistant at the Hospital (at the time of the incidents)
- Witness 3: Band 5 Staff Nurse at the Hospital (at the time of the incidents)
- Witness 4: Ward Manager at the Hospital (at the time of the incidents)
- Witness 5: Emergency Care Matron at the Hospital (at the time of the incidents)
- Witness 6: Head of Nursing at the Hospital (at the time of the incidents)

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

Charge 1(a)

"That you, a registered nurse,

1. *On 30 January 2022,*

    a. *In relation to patient A, moved the call bell out of reach."*

This charge is found proved.

In reaching this decision, the panel took into account Witness 1 and Witness 2's written statements, Witness 1's statement dated 7 February 2022 and the call bell record for room 6.

Witness 1's written statement reads:

> *"We were on our way to morning break and looked into Room 6 when we saw that the call bell was not within reach of Patient A, having been moved to the locker, which was not within reach of Patient A who had reduced mobility and was sat in their chair … [Witness 2] and I saw Ms Jones leaving Room 6 and asked why Patient A did not have their call bell, to which Ms Jones responded that she had moved the call bell away from Patient A."*

Witness 2's written statement reads:

> *"Whilst Ms Jones was in the room I noticed that Patient A had not used the call bell for a while … I asked why Patient A's call bell was in a place they could not reach it. Ms Jones looked a little uncomfortable and responded that [Witness 3] had told them to remove the call bell from Patient A."*

The panel had regard to the call bell record from room 6, which showed a gap between 10:25 and 11:53, where Patient A had not used the call bell. Before and after these times, Patient A's call bell had been in frequent use.

The evidence of Witnesses 1 and 2 was that Miss Jones had told each of them that she had taken away the call bell from Patient A, but that she had gained permission from Witness 3 to do so. Witness 3 denied this.

The panel therefore finds charge 1(a) proved.

Charge 1(b)

"That you, a registered nurse,

1. *On 30 January 2022,*

    b. *Did not carry out patient observations for the patients listed in schedule 1."*

This charge has fallen away.

The notice of hearing sent to Miss Jones did not include the schedule listed in the charges. The panel therefore found that Miss Jones had not been served effective notice of the charges and it would therefore be unfair to consider charge 1(b).

The panel therefore determined that charge 1(b) falls away.

Charge 1(c)

"That you, a registered nurse,

1. *On 30 January 2022,*

    c. *Did not sign patient B's MAR chart for Co-Beneldopa, at the time it was due."*

This charge is found proved.

In reaching this decision, the panel took into account Witness 3's written statement, Patient B's MAR chart and the Trust's medicine policy.

Witness 3's written statement reads:

> *"Upon review of Patient B's MAR charts, as provided to Capsticks, I have found that Co-Beneldopa has since been signed for by Ms Jones (indicated by the initials 'HJ') for all three administrations that day (08:00, 12:00 and 17:00). I can confirm that at 15:00 on 30 January 2022 the first two administrations had not been signed for. This means that Ms Jones must have signed the chart after 15:00, long after the medication had been due for administration."*

Patient B's MAR chart had a signature missing from the evening administration of Co-Beneldopa on 30 January 2022.

Further, the Trust's medicine policy stated:

> *"A clear, accurate and immediate record of all medicines administered must be made by the healthcare professional administration. The healthcare professional must witness the patient taking the medicine before recording the signature."*

The panel determined that Miss Jones did not sign Patient B's MAR chart for Co-Beneldopa at the time it was due to be administered. The Trust's medicine policy required prescription charts to be signed at the time of administration to the patient. The panel found Witness 3's written statement to be cogent and clear evidence that the prescription chart was not signed at the times indicated on the chart.

The panel therefore found charge 1(c) proved.

Charge 1(d)(i)

"That you, a registered nurse,

1. *On 30 January 2022,*

    d. *Did not administer:*

i. Intravenous antibiotics to patient C."

This charge is found NOT proved.

In reaching this decision, the panel took into account Witness 3's written statement and Patient C's MAR chart.

Patient C's MAR chart now shows that Miss Jones signed to confirm that she had given Patient C the antibiotics that were due at midday. Witness 3's evidence was that there was no signature for the midday dose when it was checked at 15:00.

However, the evidence was that the timing of the medication could be flexible and Witness 3's written statement reads as follows:

> *"When I checked the chart at around 20:00 on 30 January 2022 I found that Ms Jones did subsequently administer the antibiotics …"*

The panel accepted that Miss Jones did administer the antibiotics sometime after 15:00 but signed the MAR chart for midday as the time administered.

The panel therefore found charge 1(d)(i) not proved.

Charge 1(d)(ii)

"That you, a registered nurse,

1. On 30 January 2022,

e. Did not administer:

ii. Clexane injections to patients listed in schedule 1."

This charge has fallen away.

The notice of hearing sent to Miss Jones did not include the schedule listed in the charges. The panel therefore found that Miss Jones had not been served effective notice of the charges and it would therefore be unfair to consider charge 1(d)(ii).

The panel therefore determined that charge 1(d)(ii) falls away.

Charge 1(d)(iii)

"That you, a registered nurse,

1. On 30 January 2022,

d. Did not administer:

iii. Longtec to patient A."

This charge is found proved.

In reaching this decision, the panel took into account Witness 3 and Witness 6's written statements, the unit's Controlled Drug (CD) book entries for Longtec, Patient A's Longtec CD book and Patient A's MAR chart.

Witness 3's written statement reads:

> *"Upon review I found that there was also no record in this of Ms Jones signing any Longtec out of Hospital stock for Patient A on 30 January 2022. This further raised my concerns that Ms Jones may not have administered the Longtec they signed for …"*

Witness 6's written statement reads:

> *"As a controlled drug, Longtec has to be signed out of the controlled drugs book, as well as signed in the patient's own MAR chart when administered. I therefore*

checked the Unit's controlled drugs book, for both 5mg and 10mg Longtec, to see if Ms Jones has signed any out on 30 January 2022, as well as the patient's own controlled drugs record … Neither of these had any record of Ms Jones signing out any Longtec on 30 January 2022, indicating that it was not signed out and therefore not administered…"

Patient A's MAR chart appears to show there to be a signature by a second checker for the administration of Longtec. Witness 3 was unable to identify the second checker signature but confirmed the first signature as being that of Miss Jones.

The panel found Witness 3 and Witness 6's written statements to be clear and cogent. It determined that had Miss Jones administered the drugs as signed for on the MAR chart, she would have also completed an entry in the CD book belonging to either the unit or Patient A, which would have been countersigned by a second checker. The panel determined that if Miss Jones had not completed a CD book entry, then she did not remove from stock and administer Longtec to Patient A.

The panel therefore finds charge 1(d)(iii) proved.

Charge 1(e)

"That you, a registered nurse,

1. *On 30 January 2022,*

    f. *Inaccurately documented patient records by signing as both first and second checker for the administration of medication."*

This charge is found proved.

In reaching this decision, the panel considered Witness 3 and Witness 6's written statements, the unit's CD book entries for Longtec, Patient A's Longtec CD book entries, Patient A's MAR chart and the Trust's medicine policy.

Witness 3's written statement reads:

> *"… it appears that the records were falsified, with Ms Jones either administering the medication alone and putting a second checker signature, or signing for themselves and a second checker when the medication had not been administered."*

Although on Patient A's MAR chart there is a signature purporting to be a second checker, Miss Jones's colleagues did not recognise that signature. Witness 3 had established that the other nurses on the ward were not the second checker; she also confirmed that she was not the second checker.

The Trust's medicine policy stated:

> *"An independent second check must be obtained and administration witnesses for the following type of medicines:*
> *…*
> - *Controlled Drugs*
>
> *…*
> *the nurse in charge should make a record of the receipt in the designated Patient's Own CD register and be witnessed by a registered nurse."*

Witness 6's written statement reads:

> *"As a controlled drug, Longtec has to be signed out of the controlled drugs book, as well as signed in the patient's own MAR chart when administered. I therefore checked the Unit's controlled drugs book, for both 5mg and 10mg Longtec, to see if Ms Jones has signed any out on 30 January 2022, as well as the patient's own controlled drugs record … Neither of these had any record of Ms Jones signing out any Longtec on 30 January 2022, indicating that it was not signed out and therefore not administered…"*

The panel determined that Miss Jones had not only signed the MAR chart on her own behalf but had also made a purported second signature. Further, she had not made an entry into either the unit's or the patient's CD book. The panel was satisfied that a second

checker who had signed the MAR chart would not have done so without having seen the medication being administered, and subsequently would have insisted on signing the CD book. The panel therefore determined that Miss Jones falsified the second signature on the MAR chart.

The panel therefore finds charge 1(e) proved.

Charge 1(f)

"That you, a registered nurse,

1. *On 30 January 2022,*

    g. *Your actions at charge 1(e) were dishonest in that you intentionally falsified the second checker signature in patient records with the intention that any subsequent reader would believe the signature to be accurate."*

This charge is found proved.

Having found that Miss Jones did sign as second checker, the panel then considered why she did so. It determined that she knew that anyone reading the chart would believe that Patient A had received Longtec although this was not the case.

Further, an honest and decent person would consider this to be dishonest. The panel therefore concluded that Miss Jones acted dishonestly.

The panel therefore finds charge 1(f) proved.

Charge 1(g)

"That you, a registered nurse,

1. *On 30 January 2022,*

h. *Inaccurately documented in patient records that you had completed patient observations when you had not."*

This charge is found proved.

In reaching this decision, the panel considered the written statements of Witness 1, Witness 2 and Witness 3 together with the patient observation charts.

Witness 1's written statement reads:

> *"… I noticed that I did not remember seeing Ms Jones doing observations on any of the patients.*
>
> *To do the observations Ms Jones would have had to use an observations machine … At the time I realised I had not seen Ms Jones do any observations, at the end of the morning, I noticed that the observations' machine in Room 7 had not been plugged in."*

This account was corroborated by that of Witness 2. In addition, Witness 2's written statement reads:

> *"I also checked the tympanic (thermometer), which was with the observations machine, was working, which it was, as I had not seen it be touched or moved all morning."*

Witness 3's written statement reads:

> *"Having checked the charts I was not sure whether Ms Jones had completed the observations, as they had recorded that they did ..."*

The panel determined that the observations Miss Jones recorded were not those retained in the memory of the observation machine when it was last used, but were those made by the night staff. This indicates that Miss Jones had not used the machine to complete observations at the times stated on the patients' observation charts. Therefore, Miss Jones

had inaccurately documented in patient records that she had completed patient observations when she had not.

The panel found the witness statements of the two Health Care Assistants to be consistent with each other, and to be clear and cogent.

The panel therefore determined that Miss Jones had not completed patient observations and had falsified the records.

The panel therefore finds charge 1(g) proved.

Charge 1(h)

"That you, a registered nurse,

1. *On 30 January 2022,*

    h. *Your actions at charge 1(g) were dishonest in that you intentionally falsified patient records with the intention that any subsequent reader would believe the records to be accurate."*

This charge is found proved.

Having found that Miss Jones falsified the observation records, the panel then considered why she did so. It determined that she knew that anyone reading the observation records would believe that the observations had been done although this was not the case.

Further, an honest and decent person would consider this to be dishonest. The panel therefore concluded that Miss Jones acted dishonestly.

The panel therefore finds charge 1(h) proved.

Fitness to practise

The panel next considered whether the facts found proved amount to misconduct and, if so, whether Miss Jones's fitness to practise is currently impaired. There is no statutory definition of fitness to practise. However, the NMC has defined fitness to practise as a registrant's ability to practise kindly, safely and professionally.

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

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

Representations on misconduct and impairment

In coming to its decision, the panel had regard to the case of *Roylance v GMC (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.'

In this regard, the NMC's submissions were that the facts found proved amounted to misconduct. The NMC referred to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015' ("the Code").

The NMC referred to specific breaches of the Code in submitting where it said Miss Jones's actions amounted to misconduct as follows:

> *"It is submitted that the breaches of the Code amount to misconduct and are serious. By moving the call bell out of reach of patient SG, the Registrant deprived a vulnerable patient from calling for help or assistance.*

The Registrant's failure to conduct observations and failure to administer medication had the potential to cause a deterioration of health for the patients she had responsibility for.

Inaccurate record keeping means other professionals do not have a clear picture of care and medication given. This could mean patients do not receive the correct treatment, resulting in a possible decline of their condition or unnecessary pain/ suffering.

Honesty and integrity are the cornerstones of the nursing profession and the Registrant's course of dishonest conduct is a significant departure from the standards of a registered nurse.

The Registrant's conduct and behaviour is such that it amounts to misconduct."

The NMC requires the panel to bear in mind its overarching objective to protect 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. The panel has referred to the case of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

The NMC's submissions in regard to impairment were as follows:

"i. The Registrant's actions placed patients at risk of harm. Similar actions in the future could lead to a further risk of harm and distress if not addressed.

ii. Nurses occupy a position of privilege and trust. Patients, their families, and colleagues must be able to trust nurses who must make sure that their conduct justifies both their patients' and the public's trust in the profession, at all times. The Registrant's actions are liable to bring the profession into disrepute.

iii. The Registrant has breached the fundamental tenets of the profession by falsifying patient records and by not providing safe and effective care.

iv. The Registrant's dishonest conduct was to cover up her failure to carry out observations and administer medication. The Registrant has not provided any evidence to address her conduct and a risk of repetition therefore remains.

…

The Registrant has not taken any action to demonstrate remorse or insight to allay the concerns that the conduct will not be repeated. Whilst reflection and training may not fully remediate the situation, it can provide evidence of remorse and willingness to remedy the concerns, which the panel can then use to assess risk and impairment. In this case, there has been no evidence put forward by the Registrant. Therefore, the concerns remain, and the panel are left with limited information to assess impairment.

The NMC consider there is a continuing risk to the public due to the Registrant's lack of full insight and failure to undertake relevant training. She has not been able to demonstrate strengthened practice through work in a relevant area.

…

The NMC consider there is a public interest in a finding of impairment being made in this case to declare and uphold proper standards of conduct and behaviour. The Registrant's conduct engages the public interest because the public would be shocked to hear of a registered professional acting dishonestly by falsifying patient records, removing a patients call bell, not carrying out observations and failing to administer medication. The public rightly expects nurses to always perform their duties safely, honestly, and behave in a professional manner. The absence of a finding of impairment risks undermining public confidence in the profession."

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments. These included: *Roylance v General Medical Council* (No 2) [2000] 1 A.C. 311, *Nandi v General Medical Council* [2004] EWHC 2317 (Admin), 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 determined that Miss Jones's actions did fall significantly short of the standards expected of a registered nurse, and amounted to the following breaches of the Code:

'1 Treat people as individuals and uphold their dignity

1.1 treat people with kindness, respect and compassion

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

3 Make sure that people's physical, social and psychological needs are assessed and responded to

3.1 pay special attention to promoting wellbeing, preventing ill health and meeting the changing health and care needs of people during all life stages

8 Work cooperatively

8.2 maintain effective communication with colleagues

8.3 keep colleagues informed when you are sharing the care of individuals with other healthcare professionals and staff

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

10 Keep clear and accurate records relevant to your practice

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, taking immediate and appropriate action if you become aware that someone has not kept to these requirements

13 Recognise and work within the limits of your competence

13.1 accurately assess signs of normal or worsening physical and mental health in the person receiving care

18 Advise on, prescribe, supply, dispense or administer medicines within the limits of your training and competence, the law, our guidance and other relevant policies, guidance and regulations

18.2 keep to appropriate guidelines when giving advice on using controlled drugs and recording the prescribing, supply, dispensing or administration of controlled drugs

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

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

25 Provide leadership to make sure people's wellbeing is protected and to improve their experiences of the healthcare system

25.1 identify priorities, manage time, staff and resources effectively and deal with risk to make sure that the quality of care or service you deliver is maintained and improved, putting the needs of those receiving care or services first

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel found that Miss Jones's repeated pattern of dishonesty and other failures on 30 January 2022 put patients at a risk of harm. Further, Miss Jones's 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 considered whether, as a result of the misconduct, Miss Jones's 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.'

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

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

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

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

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

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

b) *has in the past brought and/or is liable in the future to bring the medical profession into disrepute; and/or*

c) *has in the past breached and/or is liable in the future to breach one of the fundamental tenets of the medical profession; and/or*

d) *has in the past acted dishonestly and/or is liable to act dishonestly in the future.'*

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

The panel finds that patients were put at risk and could have been caused physical harm and suffered pain and distress as a result of Miss Jones's misconduct. Her misconduct breached the fundamental tenets of the nursing profession and therefore brought it into

disrepute. It was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

Regarding insight, remediation and remorse, the panel has not heard from Miss Jones, nor has she engaged with the NMC for over two years. There is therefore nothing before the panel to suggest that she has strengthened her practice.

Although Miss Jones has been a registered nurse for eight years with no known previous concerns raised, the panel decided that this does not mitigate the risks identified.

The panel determined that there remains a risk of repetition based on the multiple elements of dishonesty found proved. Further, that Miss Jones, at the time of the incidents, demonstrated attitudinal concerns which are difficult to remedy. The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

The panel bore in mind 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 profession and upholding the proper professional standards for members of the profession.

The panel determined that a well-informed member of the public would be concerned if a finding of impairment were not made.

The panel therefore determined that a finding of impairment on public interest grounds is required.

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

Sanction

The panel has decided to make a striking-off order. It directs the registrar to strike Miss Jones's name from the register. The effect of this order is that the NMC register will show that Miss Jones has been struck from the register.

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

Representations on sanction

The panel noted that in the bundle sent to Miss Jones, the NMC had advised her that it would seek the imposition of a striking-off order if it found her fitness to practise currently impaired.

Decision and reasons on sanction

The panel then considered what sanction, if any, it should impose. It had 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 decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Miss Jones has not engaged with her regulator and has therefore shown no insight, remorse or remediation
- Miss Jones's conduct put patients at risk of harm, pain and distress
- Dishonesty, particularly in clinical practice, is always serious and the panel found, having reviewed the NMC's guidance on '*Considering sanctions for serious cases',* that her dishonesty was in the upper half of the spectrum of seriousness
- Although the incidents all took place on a single shift, Miss Jones demonstrated multiple aspects of misconduct

The panel was unable to identify any mitigating features.

The panel first considered whether to take no action but concluded that this would be inappropriate in view of the seriousness of the case and the need for public protection. The panel decided that it would be neither proportionate nor in the public interest to take no further action. Misconduct of this nature demands a sanction.

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 Miss Jones's 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's misconduct was not at the lower end of the spectrum and that a caution order would be inappropriate in view of the seriousness of the case. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Miss Jones's registration would be a sufficient and appropriate response. The panel could formulate no practicable or workable conditions sufficient to address the matters found proved. The misconduct identified cannot be addressed through retraining. Further, there is nothing to indicate that Miss Jones would comply with any conditions imposed. Moreover, a conditions of practice order would not adequately address the seriousness of the misconduct found proved and would not be sufficient to protect the public.

The panel next considered a suspension order as a sanction. The SG states that suspension order may be appropriate where some of the following factors are apparent:

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

The misconduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. The panel determined that the serious breaches of the fundamental tenets of the profession evidenced by Miss Jones's actions is fundamentally incompatible with her remaining on the register. The panel found that there were multiple aspects to her misconduct, dishonesty can only be attitudinal in nature and Miss Jones has demonstrated no insight.

The panel has therefore determined that a suspension order would be insufficient to protect the public or to address public interest concerns, and would be neither appropriate nor proportionate as a sanction.

In regard to a striking-off order, the panel had in mind 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's misconduct demonstrated a serious departure from the standards expected of a registered nurse, and are fundamentally incompatible with her remaining on the register. Miss Jones subjected her patients to unwarranted risk of harm, pain and distress. This lack of concern for her patients' welfare and the likely impact of her behaviour on her colleagues are incompatible with her remaining on the register. The panel determined that to allow her to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body.

After taking into account all the evidence before it, the panel determined that the only appropriate and proportionate sanction is that of a striking-off order. Having regard to the matters it identified, in particular the effect of Miss Jones's 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 a striking-off order would be sufficient.

The panel is satisfied 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 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. It is aware that it may make an interim order only if it is satisfied that it is necessary for the protection of the public, is otherwise in the public interest or in Miss Jones's own interests until the striking-off sanction takes effect.

Representations on interim order

The panel took account of the representations made by the NMC that:

> *"If a finding is made that the Registrant's fitness to practise is impaired on a public interest only basis and that their conduct was fundamentally incompatible, the NMC consider an interim order of suspension should be imposed on the basis that it is otherwise in the public interest.*
>
> *The purpose of an interim order is to cover the gap between the making of any substantive order and the statutory appeal window or any actual appeal. Should no appeal be lodged, or an appeal be resolved, the interim order would fall away."*

Decision and reasons on interim order

In reaching its decision, the panel had regard to the serious nature of the misconduct found proved and the reasons set out in its decision for the substantive order.

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 did consider an interim conditions of practice order but concluded that this would not be appropriate or proportionate, in the light of the matters identified in its determination. It concluded that only an interim suspension order would be appropriate.

The panel further determined that an interim suspension order should be for a period of 18 months to cover 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 meeting in writing.

That concludes this determination.