

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

**Substantive Hearing
Thursday, 16 – Monday, 20 January 2025**

Nursing and Midwifery Council
2 Stratford Place, Montfichet Road, London, E20 1EJ

Name of Registrant: Natalia Dooley

NMC PIN: 12F0438E

Part(s) of the register: Registered Nurse – Adult
Sub Part 1
Adult Nursing – level 1 – 18 August 2020

Relevant Location: Devon

Type of case: Misconduct/Conviction

Panel members: John Kelly (Chair, Lay member)
Des McMorrow (Registrant member)
Angela Kell (Lay member)

Legal Assessor: Ian Ashford-Thom (Thursday, 16 – Friday, 17
January 2025)
Charles Apthorp (Monday, 20 January 2025)

Hearings Coordinator: Franchessca Nyame

Nursing and Midwifery Council: Represented by Robert Rye, Case Presenter

Miss Dooley: Not present and unrepresented

Facts proved: Charges 1, 2 and 3

Facts not proved: None

Fitness to practise: Impaired

Sanction:

Striking-off order

Interim order:

Interim suspension order (18 months)

Decision and reasons on service of Notice of Hearing

The panel was informed at the start of this hearing that Miss Dooley was not in attendance and that the Notice of Hearing letter has been sent to Miss Dooley's registered address by recorded delivery and by first class post on 4 December 2024.

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

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Hearing provided details of the allegation, the time, date and venue of the hearing and, amongst other things, information about Miss Dooley's 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 Dooley 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 Dooley

The panel next considered whether it should proceed in the absence of Miss Dooley. It had regard to Rule 21 and heard the submissions of Mr Rye who invited the panel to continue in the absence of Miss Dooley.

Mr Rye stated that this hearing was originally listed to be heard on 27 – 29 November 2024. He referred the panel to an email dated 25 November 2024 from Miss Dooley to her NMC Case Coordinator responding to a reminder email. Her response was:

‘Ok no worries. Just to let you know we might have to rearrange as [PRIVATE].’

Mr Rye highlighted that the original hearing initially proceeded in Miss Dooley’s absence but was adjourned for other reasons and was relisted for a fresh hearing on 16 – 20 January 2025.

Mr Rye directed the panel to another email dated 15 January 2025 from Miss Dooley to her NMC Case Coordinator responding to an email asking her if she was still *‘planning to attend’* today’s hearing. Her response was:

‘Thank you for your email. Yes I am.

Speak to you then.’

Mr Rye then drew the panel’s attention to a further email dated 16 January 2025 Miss Dooley to her NMC Case Coordinator and the Hearings Coordinator which states:

‘...Unfortunately [PRIVATE] I won’t be able to attend the hearing today. Hopefully I can attend another day at some point [PRIVATE].’

I am very gutted and give me [sic] apologies.’

Mr Rye submitted that, on 15 January 2025, Miss Dooley made clear her intention to attend today. He further submitted that she has not made a formal application to adjourn the hearing today, and she has provided very little information in relation to [PRIVATE]. He noted that it is unknown how long [PRIVATE] and when she will be able to attend. He reminded the panel that this hearing was adjourned on the last occasion and, thus, invited the panel to proceed in Miss Dooley's absence.

The panel accepted the advice of the legal assessor.

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

The panel decided to proceed in the absence of Miss Dooley. In reaching this decision, the panel considered the submissions of Mr Rye, the email correspondence between Miss Dooley and the NMC, and the advice of the legal assessor. It had particular regard to the factors set out in the decision in *R v Jones* and *General Medical Council v Adeogba* [2016] EWCA Civ 162. The panel also had regard to the overall interests of justice and fairness to all parties. It noted that:

- Miss Dooley informed the NMC that she has received the Notice of Hearing;
- No formal application for an adjournment has been made by Miss Dooley;
- There is no reason to suppose that adjourning would secure Miss Dooley's attendance at some future date;
- There is a witness due to attend today to give live evidence;
- Not proceeding may inconvenience the witness;
- The charges relate to events that occurred in 2022 and are serious;

- Further delay may have an adverse effect on the ability of the witness to accurately recall events; and
- There is a strong public interest in the expeditious disposal of the case.

There is some disadvantage to Miss Dooley in proceeding in her absence. Although, the evidence upon which the NMC relies was sent to her at her registered address, Miss Dooley will not be able to challenge the evidence relied upon by the NMC in person and will not be able to give evidence. 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 Dooley's 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 decided that it is fair to proceed in the absence of Miss Dooley. The panel will draw no adverse inference from Miss Dooley's absence in its findings of fact.

Details of charge

That you a registered nurse:

1. On 22 February 2023 at South and West Devon Magistrates Court, were convicted of assault by beating contrary to Section 39 of the Criminal Justice Act 1988.
2. Did not tell your employer about your conviction as set out in Charge 1.
3. Your actions as set out at charge 2 was dishonest, in that you sought to conceal the fact you have been convicted.

AND in light of the above, your fitness to practise is impaired by reason of your conviction as set out in charge 1, and/or your misconduct as set out in Charges 2 and 3.

Facts found proved at this stage

Mr Rye opened the NMC's case by noting that Charge 1 concerns Miss Dooley's conviction. He submitted that, having been provided with a copy of the memorandum of conviction certified 14 August 2023, the panel can be satisfied that Charge 1 is proved.

The panel had sight of the memorandum of conviction which evidenced that Miss Dooley was duly convicted on 22 February 2023. It was satisfied that there is no suggestion that Miss Dooley is not the person referred to in the certificate. The panel therefore found Charge 1 proved in accordance with Rule 31 (2) and (3).

Background

On 20 April 2023, Miss Dooley informed the NMC that she had been convicted of an assault which took place in the early hours of 1 January 2022 in the context of Miss Dooley attending a nightclub for New Years Eve celebrations. At the time, she was working as a registered nurse at Torbay and South Devon NHS Foundation Trust (the Trust) via an agency. Her self-referral gave rise to the following regulatory concern:

Conviction – In that you were convicted of '*On 01/01/2022 at Newton Abbot assaulted [person] by beating [them], contrary to section 39 of the Criminal Justice Act 1988.*'

On 12 April 2023, Miss Dooley received a 9-week custodial sentence suspended for 12 months, 100 hours unpaid work, and was ordered to pay compensation (£500), victim surcharge (£127) and costs (£105).

On 15 January 2024, Miss Dooley applied for the post of Clinical Training Consultant at Franklins Training Services Limited (FTSL) and was interviewed on 19 January 2024 by Witness 1. On 23 January 2024, Miss Dooley was offered the position and given a

provisional start date of 12 February 2024 subject to references, a clear Disclosure and Barring Service (DBS) certificate and NMC pin.

In the context of continuing difficulty to provide a DBS certificate, it is alleged that, around the time Miss Dooley was offered the position, she told Witness 1 of an altercation that she was involved in with a friend with whom she was staying regarding rent in January 2022.

Miss Dooley commenced her employment with FTSL on 12 February 2024 and started the training required for the role. At this point, she had still not provided an up-to-date DBS. On 5 March 2024, Witness 1 contacted Miss Dooley's previous employer (A + A Training) for a reference. A + A Training refused to provide a reference for Miss Dooley and informed Witness 1 that she had been arrested for assault after spitting at someone.

On 7 March 2024, Witness 1 sent Miss Dooley an email rescinding the original offer and terminating her employment.

Decision and reasons on facts

In reaching its decisions on the disputed facts, the panel took into account all the oral and documentary evidence in this case together with the submissions from Mr Rye.

The panel drew no adverse inference from the non-attendance of Miss Dooley.

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

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

- Witness 1: Office Manager at FTSL

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor who made reference to *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67. It considered the witness and documentary evidence provided by the NMC.

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

Charge 2

“That you, a registered nurse, did not tell your employer about your conviction as set out in Charge 1.”

This charge is found proved.

In reaching this decision, the panel had regard to the written statement and oral evidence of Witness 1, and the email correspondence between Witness 1 and Miss Dooley from January 2024 – March 2024.

In their witness statement, Witness 1 said that Miss Dooley ‘*didn’t disclose a conviction on either her application or at the interview stage.*’ Witness 1 confirmed this in oral evidence and also said that they had not specifically asked Miss Dooley about this. The panel was satisfied that Witness 1 was a credible witness, as their evidence was consistent with the documentary evidence exhibited.

The panel noted from the email trail between Miss Dooley and Witness 1 that Miss Dooley’s explanations in relation to her DBS and the incident in January 2022 which led to the conviction were inconsistent and evasive. Further, the panel noted that, in the email correspondence from 12 February – 7 March 2024, Miss Dooley did not disclose her

conviction despite being asked direct questions about what might show up on her DBS check. In an email dated 20 February 2024, Miss Dooley was questioned about the status of her DBS to which she responded,

'[DBS] are saying the (certificate) has had a change in the last year so is not valid as the[sic] last certificate issued was 2016, so I need a new DBS certificate. If I didn't have any change then it would be valid...'

instead of disclosing that she was convicted of assault which, referencing the quote above, would be the change on her DBS.

The panel noted section 23.2 of 'The Code: Professional standards of practice and behaviour for nurses and midwives 2015' (the Code) which states that a registered nurse must tell the NMC or an employer as soon as possible '*...if [they] have received a conditional discharge in relation to, or have been found guilty of, a criminal offence (other than a protected caution or conviction)*'. The panel bore in mind that an 'employer' includes any person, body or organisation a registered nurse is employed by, or intends to be employed by, as a nurse, both of which apply to Witness 1 and FTSL.

In light of the above, the panel determined that Miss Dooley was under a duty to disclose her conviction for assault to Witness 1 and failed to do so.

As such, the panel found this charge proved.

Charge 3

"Your actions as set out at charge 2 was dishonest, in that you sought to conceal the fact you have been convicted."

This charge is found proved.

In reaching this decision, the panel took into account the same evidence listed for the above charge.

When considering the issue of dishonesty, the panel applied the test for dishonesty as set out in the case of *Ivey*:

'1. The Panel must first ascertain (subjectively) the actual state of the individual's knowledge or belief as to the facts. The reasonableness or otherwise of his/her belief is a matter of evidence going to whether he/she held the belief, it is not an additional requirement that his/her belief must be reasonable; the question is whether it is genuinely held;

2. Once his/her actual state of mind as to knowledge or belief as to facts is established, the question whether his/her conduct was honest or dishonest is to be determined by the Panel by applying the (objective) standards of ordinary decent people. There is no requirement that the individual must appreciate that what he/she has done is, by those standards, dishonest.'

The panel first considered Miss Dooley's subjective state of mind and what she knew at the time she applied for and took up the role with FTSL.

The panel noted that, during the period of 12 February 2024 – 7 March 2024, Miss Dooley's 12-month suspended sentence was still active. In an email dated 26 January 2024, in the context of Miss Dooley's disclosure of her involvement in a dispute with a friend over rent payments, Witness 1 asked:

'Did it go to Court as it can't be on your DBS unless you have been convicted or found guilty so if it didn't go to Court I don't think it can be on your DBS...'

Miss Dooley responded:

'No it didn't go to court'

Miss Dooley further stated in an email to Witness 1 dated 19 February 2024:

'Tbh, I don't actually know what it [sic] on the DBS but I did have an incident with my friend regarding rent etc and we were out one evening NYE and she called the police over and they gave me a caution.'

The panel heard evidence from Witness 1 that, having spoken to A + A Training and carried out Internet-based research, Witness 1 sent Miss Dooley an email dated 7 March 2024 which included the following:

'Unfortunately you were not totally honest with us regarding the incident in Devon, you had explained that you might have had an issue after an altercation with a friend over rent, the truth is that you were arrested for spitting at a nightclub doorman/bouncer and your case was scheduled for Court in September 2022. You categorically told me that there was no offence committed and you had not been arrested or attended Court. This would have shown on your DBS.'

To which Miss Dooley responded:

'I was honest with you and I did explain what happened in Devon...

How did you find out about the court??'

In the same email thread, Miss Dooley added:

'...it all ends on 11TH APRIL. I did 2 months charity work last year, working in Barnardos'

The panel determined from the above quote that Miss Dooley knew she had a conviction, together with the fact that as she was present at her court hearing on 22 February 2023, paid the fine and undertook community service. The panel also determined that, as a registered nurse, Miss Dooley knew she was duty bound under the Code to disclose her conviction. The panel noted that it was only when she was challenged on her DBS status that Miss Dooley slowly disclosed parts of the conviction but never the full circumstances of offence. It had particular regard to Miss Dooley's description of her community service as '*charity work*', which the panel considered an attempt to minimise the truth of her conviction.

The panel was satisfied that Miss Dooley's subjective state of mind was motivated by an intention to conceal the fact that she had been convicted.

The panel was also satisfied that Miss Dooley's state of mind would be regarded objectively as dishonest by the standards of ordinary decent people.

The panel therefore found this charge proved.

Fitness to practise

Having reached its determination on the facts of this case, the panel then moved on to consider, whether the facts found proved in Charges 2 and 3 amount to misconduct and, if so, whether Miss Dooley'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 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 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 in Charges 2 and 3 amount to misconduct. Secondly, if the facts found proved in Charges 2 and 3 amount to misconduct, the panel must decide whether, in all the circumstances, Miss Dooley's fitness to practise is currently impaired as a result of that misconduct and/or whether her fitness to practise is impaired by reason of her conviction in Charge 1.

Submissions on misconduct

Mr Rye highlighted that Miss Dooley was subject to the Code at the relevant time, and he submitted that her actions amounted to breaches of the following sections of the Code:

'20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

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

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

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

...

23 Cooperate with all investigations and audits

To achieve this, you must:

23.2 tell both us and any employers as soon as you can about any caution or charge against you, or if you have received a conditional discharge in relation to, or have been found guilty of, a criminal offence (other than a protected caution or conviction)'

Mr Rye submitted that Miss Dooley's conduct also breached fundamental tenets of the profession relating to duty of candour, professionalism and trust. He added that breaching these tenets must be regarded as serious, and that Miss Dooley abused the trust afforded to her by Witness 1 by not being open and honest about her conviction. He further submitted that Miss Dooley breached her duty under the Code to disclose that she had been convicted either in the application process, at interview or thereafter when she was employed by FTSL.

It was also Mr Rye's submission that Miss Dooley's dishonesty was premeditated and that she did not act with integrity as she deliberately concealed her conviction. He further submitted that Miss Dooley had many chances to be upfront and honest, instead continuing a charade that there would be nothing on her DBS and by suggesting that the incident was a disagreement with a friend which led to no charge or court proceedings.

Mr Rye submitted that Miss Dooley's dishonesty cannot be said to be at the lower end of the spectrum because of the deceitful nature of her conduct. He went on to further submit that, due to Miss Dooley's failure under the Code to disclose her conviction, her conduct brings the nursing profession into dispute.

Mr Rye stated that dishonesty must be seen to be serious and that it is difficult to remediate. He submitted that Miss Dooley has fallen far short of remediating her conduct and therefore invited the panel to take the view that the facts found proved amount to misconduct.

Submissions on impairment

Mr Rye 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.

Mr Rye referenced NMC guidance 'DMA-1: Impairment' and *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) and Grant* [2011] EWHC 927 (Admin).

Mr Rye submitted that, although Miss Dooley's conduct did not involve patients, her actions caused harm to a member of the public. He added that, due to Miss Dooley's attitudinal issues, it cannot be said that she does not pose a future risk if allow to practise without restriction.

Mr Rye drew the panel's attention to previous findings regarding Miss Dooley's verbal and physical abuse against colleagues and submitted that this suggests a propensity for such behaviour and a likelihood of repetition. He further submitted that significant harm was caused to the victim of Miss Dooley's assault and this demonstrates further breaches of the Code:

'1 Treat people as individuals and uphold their dignity

To achieve this, you must:

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

1.5 *respect and uphold people's human rights*

...

20 Uphold the reputation of your profession at all times

To achieve this, you must:

20.4 *keep to the laws of the country in which you are practising*

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

Mr Rye submitted that all four limbs of the *Grant* test are answered in the affirmative, and that Miss Dooley's overall conduct demonstrates a lack of integrity, and lack of respect for colleagues and the victim of her assault.

[PRIVATE].

Mr Rye submitted that Miss Dooley has failed to demonstrate sufficient insight or remediation for the panel to be confident that she can practise safely in future. He highlighted that she remains apologetic for her actions but has not demonstrated insight as to her conduct, the harm caused to the victim or the effects on them, nor has she demonstrated any understanding as to how a member of the public would view her conduct or how it brings the nursing profession into disrepute. He added that Miss Dooley instead continues to minimise her wrongdoing by suggesting that [PRIVATE].

Mr Rye made reference to the case of *Ronald Jack Cohen v General Medical Council* [2008] EWHC 581 (Admin), and NMC guidance 'FTP-15a: Can the concern be addressed?'. He also made reference to NMC guidance 'FTP-15b: Has the concern been addressed?' and submitted that Miss Dooley has yet to demonstrate that the concerns have been addressed satisfactorily because she has not:

- Stepped back from the situation and look at it objectively;
- recognised what went wrong aside from saying that her actions were due to [PRIVATE];
- accepted her role and responsibilities and how they are relevant to what happened;
- appreciated what could and should have been done differently; and
- understood how to act differently in the future to avoid similar problems happening.

Mr Rye referenced NMC guidance 'FTP-3a: Serious concerns which are more difficult to put right' and highlighted that breaching the duty of candour is difficult to put right because it is indicative of attitudinal issues. He submitted that Miss Dooley has yet to demonstrate insight and that she has not undertaken further training around duty of candour or integrity,

nor has she provided any testimonials attesting to her honesty or integrity. He reminded the panel that Miss Dooley has previous regulatory findings in relation to verbally abusing colleagues and that these latest events took place when she was still subject to a conditions of practice order relating to the earlier regulatory findings. He submitted that Miss Dooley has anger management problems and there is evidence of deep-seated attitudinal issues. As such, he submitted that there is a strong likelihood of repetition in the case notwithstanding that Miss Dooley claims that she is now in better place. Mr Rye therefore invited the panel to make a finding of current impairment on the ground of public protection.

Mr Rye further submitted that the conduct demonstrated by Miss Dooley is such that a finding of impairment should be made on public interest grounds to maintain proper standards of behaviour in the nursing profession.

The panel accepted the advice of the legal assessor which included reference to a number of relevant judgments.

Decision and reasons 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.*'

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 Dooley's actions amount to a breach of the Code, specifically:

'20 Uphold the reputation of your profession at all times

To achieve this, you must:

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

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

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

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

...

23 Cooperate with all investigations and audits

To achieve this, you must:

23.2 tell both us and any employers as soon as you can about any caution or charge against you, or if you have received a conditional discharge in relation to, or have been found guilty of, a criminal offence (other than a protected caution or conviction)'

The panel considered that, not only did Miss Dooley fail to disclose her conviction, but she also maintained her position and adjusted her narrative to suit the emerging circumstances. The panel noted that she was given numerous opportunities to disclose her conviction as a prospective employee of FTSL and after her employment commenced, but failed to do so. The panel takes the view that this demonstrates that her actions were a premeditated and sustained failure rather than a one-off. The panel determined that this underlines the seriousness of the misconduct.

The panel also had regard to Miss Dooley's failure to disclose her conviction in the face of growing concerns on the part of Witness 1 about her failure to provide a clear, up-to-date DBS certificate such that she abused their trust and failed to uphold duty of candour. The panel also took into consideration that Miss Dooley's dishonesty was aimed at concealing her conviction in order to secure employment and ultimately make a financial gain.

For the above reasons, the panel found that Miss Dooley's actions at Charges 2 and 3 fell significantly short of the conduct and standards expected of a nurse and amount to serious misconduct.

Decision and reasons on impairment

The panel next went on to decide if, as a result of the misconduct, Miss Dooley'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. 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 *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 was satisfied that all four limbs of the above test are engaged in this case.

The panel found that Miss Dooley's assault resulted in physical as well as psychological harm to the victim due to the risk of COVID-19 infection. *'This caused him considerable distress as the offence was committed in the midst of the pandemic at a period when*

significant restrictions were in place. Additionally, the victim suffered loss of earnings after having to take time off of work and had to undergo a series of medical tests.

The panel determined that Miss Dooley breached fundamental tenets relating to duty of candour, professionalism and trust, and brought the nursing profession into disrepute with her lack of integrity and respect for members of the public, including Witness 1 who she misled in order to gain employment.

The panel found that Miss Dooley's conviction demonstrates further breaches of the Code:

'1 Treat people as individuals and uphold their dignity

To achieve this, you must:

1.2 treat people with kindness, respect and compassion.

1.6 respect and uphold people's human rights

...

20 Uphold the reputation of your profession at all times

To achieve this, you must:

20.4 keep to the laws of the country in which you are practising

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

The panel is of the view that the misconduct in this case is capable of being addressed. However, it considered that to do so would be very difficult because of the dishonesty aspect and Miss Dooley's deep-seated attitudinal issues demonstrated in her behaviour towards the victim of her assault. Her failure to disclose her conviction, her dishonesty to Witness 1 in the face of increasingly pointed questions about her DBS status and her persistence in avoiding answering these questions all contribute to the difficulty in remediating these concerns. These factors, combined with the findings from previous

regulatory proceedings relating to verbal and physical abuse of colleagues, led the panel to conclude that, whilst possible, remediation would be extremely difficult in this case.

The panel determined that the concerns in this case have not been addressed.

The panel noted the bundle of certificates submitted by Miss Dooley relating to courses that she has undertaken. These appear to be short, online courses and none of them directly relevant to the serious findings of fact in this case such that they demonstrate insight and strengthen practice. The panel has no information from Miss Dooley as to how she has or would apply the learning from these courses to her practice.

The panel acknowledged Miss Dooley's expressions of regret but noted that it has not seen any evidence that she offered a direct apology to anyone impacted by her actions, nor has she demonstrated reflection on the body of evidence in this case. The panel further noted that Miss Dooley has not acknowledged her role in what she did, and that her dishonesty continued through all stages of the employment process. The panel took into account that the events related to the charges occurred despite Miss Dooley at that time being subject to a conditions of practice order and a 12-month suspended sentence, demonstrating that she did not take this opportunity to remediate when given the chance.

The panel referred to an email from Miss Dooley to the NMC dated 16 January 2025 in response to an email from her NMC Case Coordinator notifying her that the panel has proceeded in her absence. Miss Dooley's response states:

'... Yes, I understand that I have had some issues raised in the past but I was going through a tough time during covid...

I do not agree with the allegations stating that I didn't tell my employer about my DBS.

The DBS conviction has nothing to do with my work, it wasn't in the context of patients or in the vicinity of work,

It was a [sic] isolated incident where I was assaulted by a doormen but the friend I was with told two police officers outside the restaurant that I assaulted him.

I have never once denied the conviction on my DBS.'

[PRIVATE]. It was of the view that the above email demonstrates that she maintains her position of denial despite already pleading guilty at court on 12 April 2023 and despite the evidence of her failure to disclose her conviction as set out in contemporaneous emails. The panel took note of Miss Dooley's reflection to the NMC in 2023 and determined that there has been no shift in her mindset between then and now despite her having 15 months to further reflect.

The panel concluded that Miss Dooley's misconduct and conviction have not been remediated and there is no evidence that she has demonstrated no meaningful effort to do so.

In light of the above, the panel found that Miss Dooley's misconduct is highly likely to be repeated and determined that Miss Dooley cannot practise kindly, safely and professionally. It therefore decided that a finding of impairment is necessary on the ground of public protection.

The panel determined that such is the seriousness of this case that a reasonable and fully informed member of the public would be seriously concerned if a finding of impairment were not made. The panel therefore determined that a finding of impairment on public interest grounds is necessary to promote and maintain public confidence in the nursing profession, and declare and uphold proper professional standards.

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

Sanction

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

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

Submissions on sanction

Mr Rye submitted that a striking-off order is the proportionate order to impose in these circumstances.

Mr Rye submitted the aggravating features in this case are as follows:

- Miss Dooley breached professional duty of candour by not being open and honest;
- She demonstrated a lack of integrity by way of her conviction and dishonesty;
- She breached the Code when she failed to disclose her conviction;
- She breached the fundamental tenets of professionalism and trust, and also breached the trust provided by Witness 1 by not being open and honest;
- Her dishonesty was premeditated and sustained over weeks despite having many opportunities to come forth and disclose her conviction;
- She has not demonstrated any insight regarding the harm caused to the victim of her assault;
- She has not taken steps to remediate the concerns in this case;
- She has previous regulatory findings of similar nature which demonstrate deep-seated attitudinal concerns;
- Charges 2 and 3 occurred whilst she was subject to a previous substantive conditions of practice order;

- She caused physical and emotional harm to the victim of her assault; and
- The assault occurred during a pandemic when restrictions were in place.

Mr Rye submitted that the NMC does not present any mitigating features, [PRIVATE].

It was Mr Rye's submission that taking no further action or a caution order would not be appropriate or proportionate as neither sanction would protect the public or mark the seriousness of this case. He also submitted that the facts together with the attitudinal issues are the core of this case, therefore a conditions of practice order would not be an appropriate or proportionate sanction as this case is too serious and it would be difficult to address the concerns with conditions.

Mr Rye further submitted that a suspension order would not be appropriate or proportionate. He stated that the concerns are extremely serious as they involve Miss Dooley's breach of fundamental tenets of the profession, failure to adhere to the Code and dishonesty. He added that, in attempting to conceal her conviction, Miss Dooley's dishonesty was premeditated and sustained, thus it cannot be said that it was a single incident of misconduct. He stated that Miss Dooley's lack of candour is compounded by her lack of integrity in that she sought financial gain from dishonestly securing employment; her repeated misconduct demonstrates that there is an ongoing risk to the health, safety and wellbeing of public. He therefore submitted that a suspension order is not sufficient.

Mr Rye submitted that, given Miss Dooley's previous and these regulatory findings together with her conviction, her actions are fundamentally incompatible with remaining on the NMC register. He went on to further submit that Miss Dooley's previous regulatory findings demonstrate previous incidents of deep-seated attitudinal issues and abusive behaviour, all of which are difficult to remediate. He stated that Miss Dooley has not demonstrated any insight and continues to deny the assault, as well as failed to address the concerns by way of reflection or strengthening her practice. He submitted that public

confidence in the profession would be severely undermined if Miss Dooley were permitted to remain on the register.

Mr Rye reminded the panel that Miss Dooley's actions caused harm to the victim of her assault, and that a previous Fitness to Practise Committee panel found that her abuse of colleagues would have caused harm to patients who witnessed her behaviour. He therefore submitted that there is a risk of harm to patients if Miss Dooley's misconduct were to be repeated, and that the risk of repetition is high bearing in mind that there have been three sets of regulatory proceedings against Miss Dooley.

Mr Rye submitted that, notwithstanding the fact that Miss Dooley completed her 12-month suspended sentence, given the serious nature of the assault and her denial, combined with the concealment of her conviction and the previous regulatory findings, a striking-off order is the appropriate and proportionate sanction.

Decision and reasons on sanction

Having found Miss Dooley's fitness to practise currently impaired, the panel went on to consider what sanction, if any, it should impose in this case. The panel bore 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 was also mindful of the overarching objective to protect of the public. In order to achieve this, the panel must:

- Protect, promote and maintain the health, safety and wellbeing of the public;
- Promote and maintain public confidence in the nursing and midwifery professions;
and
- Promote and maintain proper professional standards and conduct for members of the nursing and midwifery professions.

The panel took into account the following aggravating features:

- The previous regulatory findings against Miss Dooley;
- Her abuse of a position of trust as a registered nurse;
- Her lack of insight;
- The pattern of repeated misconduct over a period of time;
- The fact that these incidents occurred whilst she was still subject to a conditions of practice order imposed in May 2023 as well as a 12-month suspended prison sentence;
- Her actions undermined a fundamental process designed to keep people safe (DBS check), she demonstrated conduct which put people receiving care at risk of suffering harm;
- She had numerous opportunities to disclose her conviction to FTSL from January – March 2024; and
- She continues to deny the facts of her conviction and the charges at this hearing.

[PRIVATE].

The panel had regard to SG ‘SAN-2: Considering sanctions for serious cases’.

The panel was of the view that the nature of the assault and the very deliberate act of spitting is worsened by the context that the incident took place during the COVID-19 pandemic. The panel considered that Miss Dooley’s actions caused physical and psychological harm to the victim of her assault, and that this took place when she was subject to a conditions of practice order. The panel noted that Miss Dooley has not expressed remorse, nor demonstrated insight or strengthened practice; Miss Dooley continues to both deny the circumstances of her conviction and downplay its seriousness in her most contemporaneous email to the NMC dated 16 January 2024:

*'...The DBS conviction has nothing to do with my work, it wasn't in the context of patients or in the vicinity of work,
It was a [sic] isolated incident where I was assaulted...'*

The panel referred to the following passage from the SG:

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

- *deliberately breaching the professional duty of candour by covering up when things have gone wrong, especially if it could cause harm to people receiving care*
- *misuse of power*
- *...*
- *personal financial gain from a breach of trust*
- *direct risk to people receiving care*
- *premeditated, systematic or longstanding deception*

Dishonest conduct will generally be less serious in cases of:

- *one-off incidents*
- *opportunistic or spontaneous conduct*
- *no direct personal gain*
- *incidents outside professional practice'*

In terms of the more serious forms of dishonesty listed above, the panel determined that all those factors are engaged in this case. The panel also determined that, given the premeditated and sustained nature of Miss Dooley's dishonesty in tandem with the financial gain she made when she secured employment by breaching Witness 1's trust, this was not a one-off, opportunistic incident which resulted in no direct personal gain.

Whilst the panel noted that the incident which led to Miss Dooley's conviction happened outside of her professional practice, it determined that the incident was serious in and of itself as it was an assault that took place whilst she was intoxicated. Additionally, her actions reflect attitudinal issues towards colleagues which led to Miss Dooley's earlier Fitness to Practise findings in May 2023.

The panel is concerned that, from the text of her email of 16 January 2025 reproduced above, Miss Dooley sees no connection between her '*DBS conviction*', her application for employment at FTSL, and her work as a registered nurse. This further underlines her lack of insight.

For the above reasons, the panel found the seriousness of this case to be towards the higher end of the spectrum due to Miss Dooley's dishonesty, conviction and her attitude towards both.

The panel had regard to 'SAN-3: Available sanction orders'.

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 Miss Dooley'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 Dooley'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 Dooley's registration would be a sufficient and appropriate response. The panel was of the view that there are no practical or workable conditions that could be formulated given the nature of the charges and the serious attitudinal concerns in this case. Furthermore, the panel concluded that placing conditions on Miss Dooley's registration would not protect the public or adequately address the public interest, especially since Miss Dooley being subject to a conditions of practice order has not prevented her misconduct in the past.

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

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

Whilst the facts leading to Miss Dooley's conviction are drawn from a single incident, the panel determined that, due to the seriousness of her actions, continued denial despite an earlier guilty plea and a lack of insight, a lesser sanction would not be appropriate in this case.

In relation to Miss Dooley's failure to disclose her conviction to FTSL and the associated dishonesty, the panel considers that this is not a single instance of misconduct but continued over several weeks. Miss Dooley had numerous opportunities to make a disclosure.

There is evidence of deep-seated attitudinal problems on the part of Miss Dooley towards her victim, employer and, having regard to the earlier Fitness to Practise findings, her colleagues.

Whilst there is no evidence of repetition of her behaviour since the incident in this case, the panel is not satisfied that Miss Dooley has insight and considers that she poses a significant risk of repetition.

The misconduct, as highlighted by the facts found proved, was a significant departure from the standards expected of a registered nurse. In this particular case, the panel determined that a suspension order would not be a sufficient, appropriate or proportionate sanction.

Finally, in considering 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?*

The panel determined that this hearing being Miss Dooley's third set of regulatory proceedings despite being subject to a conditions of practice order and a 12-month suspended prison sentence raises fundamental questions about her professionalism. The panel was of the view that the findings in this particular case demonstrate that Miss Dooley's actions are extremely serious and to allow her to continue practising would actively undermine public confidence in the profession and in the NMC as a regulator. The panel also determined that Miss Dooley's past actions as well as her continued denial and dismissal of the facts are fundamentally incompatible with her remaining on the register.

Balancing all of these factors and after taking into account all the evidence before it during this case, the panel determined that the only appropriate and proportionate sanction is that of a striking-off order. Having regard to the effect of Miss Dooley'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 concluded that nothing short of this would be sufficient in this case.

The panel considered that this order is necessary to mark the importance of maintaining public confidence in the profession and the NMC as a regulator, and to declare and uphold the proper standards of behaviour required of a registered nurse.

This will be confirmed to Miss Dooley in writing.

Interim order

As a striking-off order cannot take effect until the end of the 28-day appeal period, the panel considered whether an interim order is required in 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 Dooley's own interests until the striking-off sanction takes effect.

Submissions on interim order

Mr Rye submitted that an interim order is necessary to protect the public and meet the public interest. He invited the panel to impose an interim suspension order for a period of 18 months to cover the appeal period and any appeal if made.

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

Decision and reasons on interim order

The panel was satisfied that an interim suspension order is necessary to protect the public and is otherwise in the public interest. The panel had regard to the seriousness of the misconduct and the reasons set out in its decision for the substantive order in reaching the decision to impose an interim order. It considered that to not impose an interim suspension order would be inconsistent with its earlier findings and would not address the risk of repetition identified in this case.

Therefore, the panel made an interim suspension order for a period of 18 months.

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

That concludes this determination.