Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Meeting
Thursday 16 January 2025 – Friday 17 January 2025

Virtual Meeting

Name of Registrant:	**Norma Shakes**
NMC PIN	07B2297E
Part(s) of the register:	Registered Nurse – Sub Part 1 Mental Health Nursing – April 2007
Relevant Location:	London
Type of case:	Misconduct
Panel members:	Dave Lancaster (Chair, lay member) Dorothy Keates (Registrant member) Laura Wallbank (Registrant member)
Legal Assessor:	John Moir
Hearings Coordinator:	Emma Norbury-Perrott
Facts proved:	All charges found proved
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 that the Notice of Meeting had been sent to Ms Shakes registered home address by Royal Mail recorded delivery on 3 December 2024.

The panel had regard to the Royal Mail 'Signed for' printout which showed the Notice of Hearing was delivered to Ms Shakes's registered address on 4 December 2024. It was signed for against the printed name of 'Norma'.

The panel accepted the advice of the legal assessor.

The panel took into account that the Notice of Meeting provided details of the allegation, the time, dates and that this meeting was heard virtually.

In the light of all of the information available, the panel was satisfied that Ms Shakes 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 24 November 2021 failed to complete intermittent (15 minute) observations of Patient A between 2145/2200 and 2245.

2. Your conduct at Charge 1 above contributed to the death of Patient A.

3. On 24 November 2021 made one or more false entries in Patient A's observation record at 2200 and/or 2215 and/or 2230 and/or 2245.

4. Your conduct at Charge 3 above was dishonest as you produced an observation record pertaining to Patient A's care which you knew was not true.

5. On 02 August 2021 practised as a nurse when your Nursing & Midwifery Council registration had lapsed.

6. On 07 September 2021, in your application for readmission to the Nursing & Midwifery register, made a false declaration that you had not practised as a nurse whilst you were lapsed when you had practised on 02 August 2021.

7. Your conduct at Charge 6 was dishonest as you knew you practised as a nurse when your registration was lapsed.

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

Background

On 10 March 2022, the Trust made a referral in relation to Ms Norma Shakes. In the referral, they raised concerns about Ms Shakes' practice on two separate occasions. The allegations are as follows:

- On 2 August 2021, Ms Shakes administered medication to 15 patients despite knowing she was unable to do so as her NMC registration had lapsed on 31 July 2021.

- On 24 November 2021, Ms Shakes was allocated to undertake 15-minute observations on a patient between 22:00 and 23:00. Ms Shakes falsely documented she completed these observations, despite failing to complete them. Ms Shakes also falsely told her managers she had completed the observations when asked. The Trust told the NMC that the CCTV shows the

patient was unobserved for 70 minutes and the patient was found unresponsive at 22:58.

Ms Shakes has not engaged with the Trust's investigations and has resigned from her post.

Decision and reasons on facts

In reaching its decisions on the facts, the panel took into account all the documentary evidence in this case together with the representations made by the NMC.

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

- Witness 1: Modern Matron at the Coborn Centre for Adolescent Mental Health
- Witness 2: Registered Mental Health Nurse at East London NHS Foundation Trust
- Witness 3: Senior Registration and Revalidation Officer at the NMC
- Witness 4: Matron at East London NHS Foundation Trust

Before making any findings on the facts, the panel heard and accepted the advice of the legal assessor. It considered the documentary evidence provided by the NMC.

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

Charge 1

"1. On 24 November 2021 failed to complete intermittent (15 minute) observations of Patient A between 2145/2200 and 2245."

This charge is found proved.

In reaching this decision, the panel took into account and observed the CCTV evidence related to this incident, and the evidence from Witness 2.

Witness 2 allocated the responsibility of completing 15 minute observations of patient A to Ms Shakes in line with trust policy between the hours of 22:00 and 23:00. Witness 2 stated;

> *"Miss Shakes duty was to carry out observations as required (for Patient A every 15 minutes). If Miss Shakes had not been or was not able to complete the observations, they should have informed me. Miss Shakes should also have informed me if they were running late on their observations, even if this was by a few minutes. Miss Shakes should also have let me know when the alarm was raised that the observations were not conducted. I was horrified when I was informed by senior managers that the observations had not been done."*

The CCTV footage shows that no observations were carried out during this time by Ms Shakes or anyone else, and therefore the panel finds this charge proved.

Charge 2

> "2. Your conduct at Charge 1 above contributed to the death of Patient A."

This charge is found proved.

In reaching this decision, the panel took into account Witness 1's evidence, The Trust observation competency template, and the CCTV evidence relating to the incident.

Witness 1 described the duty of care that Ms Shakes had for completing observations in line with The Trust policy and that regular observation and competency training was provided for staff. The policy also sets out rules and expectations that all staff have a duty to be honest. Witness 1 stated;

> *"If observations had been conducted, Patient A would not have taken their own life."*

The panel determined that Ms Shakes left a vulnerable patient, who was known to have suicidal ideations and had made previous attempts to take their own life, including earlier that day, for an extended period of time, without any observations.

Ms Shakes failed to complete Patient A's 15 minute observations as was her duty as the nurse assigned to observe Patient A. Witness 1 said;

> *'If observations had been conducted there is a small chance/and or less chance Patient A would have been able to take their own life and would have been found sooner.'*

Therefore, the panel determined that Ms Shakes' omission greatly increased the opportunity for patient A to end their life without being discovered, and therefore, the panel finds this charge proved.

Charge 3

> "3. On 24 November 2021 made one or more false entries in Patient A's observation record at 2200 and/or 2215 and/or 2230 and/or 2245."

This charge is found proved.

In reaching this decision, the panel took into account the CCTV evidence relating to the incident, patient A's observation charts, and The Trust investigation documentation.

The panel observed CCTV footage which demonstrated that no observations were completed for patient A during this time frame.

The panel had sight of Patient A's observation chart which showed written intermittent observations documented at 2200, 2215, 2230, and 2245. The four signatures on the observation charts during the period in question were notably different from the preceding signatures. Ms Shakes was allocated to complete patient A's observations during that period. The panel had no signature log for comparison purposes. However, it noted that witness 2 had sight of the observation chart and initially had no reason to doubt that the observations had not been completed and documented by the staff she had allocated to complete them. Accordingly, the panel found on the balance of probabilities that these were made by Ms Shakes.

Taking into consideration the evidence before it, and it's earlier findings in Charges 1 and 2, the panel determined that it is more likely than not Ms Shakes documented the observations knowing that she had not completed them. Therefore, the panel find this charge proved.

Charge 4

"4. Your conduct at Charge 3 above was dishonest as you produced an observation record pertaining to Patient A's care which you knew was not true."

This charge is found proved.

In reaching this decision, the panel took into account the CCTV footage, Witness 2's evidence, and patient A's observation record.

The panel determined that no observations were completed, based on the CCTV evidence, which contradicts patient A's observation chart which was completed falsely by Ms Shakes. The panel also took into consideration the apology Ms Shakes made to Witness 2 in relation to the incident. Witness 2 stated;

> *"Just before Christmas 2021, I spoke to Miss Shakes personally who apologised for what happened without me prompting."*

Witness 2 also said;

> *"Miss Shakes would have been aware of this duty as it was not a new duty and they had five more years of experience than I did. Miss Shakes had a habit of actively going around and doing observations if they needed to be done. That is why I am so shocked and questioned why this happened."*

The panel had regard to the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67 which sets out the test for dishonesty. The panel determined that Ms Shakes acted in a dishonest manner, misleading professional colleagues in regard to the completion of Patient A's observations. Ms Shakes actions could not have occurred in error and by signing Patient A's observation record when she had not completed the observations, Ms Shakes' actions were deliberately dishonest.

Taking into consideration the evidence before it, and it's earlier finding at Charge 3, the panel find this charge proved.

Charge 5

> "5. On 02 August 2021 practised as a nurse when your Nursing & Midwifery Council registration had lapsed."

This charge is found proved.

In reaching this decision, the panel took into account medication logs dated 2 August 2021, Witness 3's evidence, and email correspondence from the NMC to Ms Shakes.

The panel saw evidence that on 1 August 2021, Ms Shakes registration with the NMC had expired, along with evidence of five revalidation reminder emails sent to Ms Shake between 9 May 2021 and 3 July 2021. On 1 August 2021, the NMC sent Ms Shakes an email informing them that their NMC registration had lapsed, and it would be illegal for them to continue practising as a registered Nurse.

The panel noted that the email address used to contact Ms Shakes, is also the same email address which Ms Shakes confirmed when signing up to NMC Online in September 2021.

The panel had sight of a medication log relating to 2 August 2021, where they observed Ms Shakes signing for and dispensing medications.

As an experienced nurse, the panel determined that Ms Shakes understood the revalidation process and what this entails. It also determined that Ms Shakes chose to practice as a registered nurse knowing that her registration had lapsed.

Therefore, the panel finds this charge proved.

Charge 6

"6. On 07 September 2021, in your application for readmission to the Nursing & Midwifery register, made a false declaration that you had not practised as a nurse whilst you were lapsed when you had practised on 02 August 2021."

This charge is found proved.

In reaching this decision, the panel took into account readmission (to the register) submission documentation submitted by Ms Shakes to the NMC, Witness 3's evidence, medication logs dated 2 August 2021, and email correspondence from the NMC to Ms Shakes.

The panel had sight of Ms Shakes readmission submission to the NMC register. Ms Shakes made a declaration stating she had not worked since her registration lapsed.

The panel determined that Ms Shakes statement is contradicted by the medication log evidence which shows Ms Shakes dispensing and signing for medication acting as a registered nurse on 2 August 2021.

The panel also noted a previous readmission submission made by Ms Shakes in 2018 where she declared '*Yes*' when asked if she had worked (as a registrant) since her registration lapsed. The panel are of the view that this demonstrates that Ms Shakes has an understanding of this process, and she chose to not answer this question honestly when submitting her readmission application in 2021.

Therefore, the panel finds this charge proved.

Charge 7

"7. Your conduct at Charge 6 was dishonest as you knew you

practised as a nurse when your registration was lapsed."

This charge is found proved.

In reaching this decision, the panel took into account readmission (to the register) submission documentation submitted by Ms Shakes to the NMC, Witness 3's evidence, medication logs dated 2 August 2021, and email correspondence from the NMC to Ms Shakes.

The panel also had regard to the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67 which sets out the test for dishonesty.

The panel determined that Ms Shakes acted in a dishonest manner, misleading professional colleagues, and the NMC, in regard to working as a registered nurse when her registration had lapsed. Ms Shakes actions were deliberately dishonest in that she chose to deny working as a nurse during this time, and signed a declaration in her NMC readmission submission documents which stated;

> *"I understand that falsely representing myself as a registered nurse, or midwife or specialist community public health nurse is a criminal offence and should any of the details provided in this application prove to be false, I may be liable to prosecution. I am also aware that the information I supply will be checked by the NMC and failure to provide detailed information will result in my application being delayed or rejected.*
> *All of the information I have provided is true and accurate: Yes"*

Taking into consideration the evidence before it, and it's earlier finding at Charge 6, the panel find 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 amount to misconduct and, if so, whether Ms Shakes'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. Secondly, only if the facts found proved amount to misconduct, the panel must decide whether, in all the circumstances, Ms Shakes's fitness to practise is currently impaired as a result of that misconduct.

The panel accepted the advice of the Legal Assessor.

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.'

The NMC invited the panel to take the view that the facts found proved amount to misconduct. The panel had regard to the terms of 'The Code: Professional standards of practice and behaviour for nurses and midwives (2015' ("the Code") in making its decision.

The panel had regard to the statement of case from the NMC;

'Misconduct

The comments of Lord Clyde in Roylance v General Medical Council [1999] UKPC 16 may provide some assistance when seeking to define misconduct:

> *'[331B-E] Misconduct is a word of general effect, involving some act or omission which falls short of what would be proper in the circumstances. The standard of propriety may often be found by reference to the rule and standards ordinarily required to be followed by a [nurse] practitioner in the particular circumstances'.*

As may the comments of Jackson J in Calheam v GMC [2007] EWHC 2606 (Admin) and Collins J in Nandi v General Medical Council [2004] EWHC 2317 (Admin), respectively:

> *'[Misconduct] connotes a serious breach which indicates that the doctor's (nurse's) fitness to practise is impaired'.*

And

> *'The adjective "serious" must be given its proper weight, and in other contexts there has been reference to conduct which would be regarded as deplorable by fellow practitioner'.*

Where the acts or omissions of a registered nurse are in question, what would be proper in the circumstances (per Roylance) can be determined by having reference to the Nursing and Midwifery Council's Code of Conduct'

The NMC identified the specific, relevant standards where Ms Shakes's actions amounted to misconduct. Namely; 1.2, 1.4, 3, 3.1, 10, 10.1, 10.3, 13, 13.1, 20, 20.1, 20.2, 24 and 24.2.

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 cases of *Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery Council (2) Grant* [2011] EWHC 927 (Admin).

The panel had sight of the statement of case from the NMC inviting the panel to find Ms Shakes's fitness to practise impaired;

> *'13. The NMC's guidance explains that impairment is not defined in legislation but is a matter for the Fitness to Practise Committee to decide. The question that will help decide whether a professional's fitness to practise is impaired is:*
>
> *"Can the nurse, midwife or nursing associate practise kindly, safely and professionally?"*
>
> *14. If the answer to this question is yes, then the likelihood is that the professional's fitness to practise is not impaired.*
>
> *15. Answering this question involves a consideration of both the nature of the concern and the public interest. In addition to the following submissions the panel is invited to consider carefully the NMC's guidance on impairment.*
>
> *16. When determining whether the Registrant's fitness to practise is impaired, the questions outlined by Dame Janet Smith in the 5th Shipman Report (as endorsed in the case of Council for Healthcare Regulatory Excellence v (1) Nursing and Midwifery*

Council (2) Grant [2011] EWHC 927 (Admin)) are instructive. Those questions were:

> *1. has [Ms Shakes] in the past acted and/or is liable in the future to act as so to put a patient or patients at unwarranted risk of harm;*
>
> *and/or*
>
> *2. has [Ms Shakes] in the past brought and/or is liable in the future to bring the [nursing] profession into disrepute; and/or*
>
> *3. has [Ms Shakes] in the past committed a breach of one of the fundamental tenets of the [nursing] profession and/or is liable to do so in the future and/or*
>
> *4. has [Ms Shakes] in the past acted dishonestly and/or is liable to act dishonestly in the future.*

17. It is the submission of the NMC that all four limbs can be answered in the affirmative in this case.

18. In respect limb 1, harm was caused to Patient A due to the lack of observations carried out. As noted on the charges, the registrants conduct contributed to the death of Patient A.

19. In respect of limb 2, Ms Shakes acted dishonestly when she sought to falsify the records of Patient A retrospectively to hide her failure to carry out the necessary observations. She further acted dishonestly when she made a false declaration to the NMC seeking readmission after allowing her registration to lapse. Miss Shaker was practising during the period in which her registration had lapsed, this conduct is liable to bring the profession into disrepute.

20. In respect of limb 3, Ms Shakes actions clearly breached a fundamental tenet of the nursing profession by failing to act with honesty and integrity. Without any demonstration of remorse or steps to address the conduct, the risk of repetition remains.

21. Finally, regarding limb 4, Ms Shakes actions were dishonest with no demonstration of steps to address the conduct, the risk of repetition remains.

22. Impairment is a forward-thinking exercise which looks at the risk the registrant's practice poses in the future. NMC guidance adopts the approach of Silber J in the case of R (on application of Cohen) v General Medical Council [2008] EWHC 581 (Admin) by asking the questions whether the concern is easily remediable, whether it has in fact been remedied and whether it is highly unlikely to be repeated.

23. We consider Ms Shakes' actions and dishonesty are not easily remediable and that Ms Shakes has displayed no insight, which would be required for remediation. We take this view for the following reasons

24. Ms Shakes failed to engage with initial investigations undertaken by the Trust. She resigned from her post prior to providing a statement or attending any investigatory meetings. The matter was investigated by the Coroner however Ms Shakes did not give evidence as she was deemed to be medically unfit to do so. She has also failed to engage with the NMC.

25. No response from Ms Shakes has been given to the NMC since referral. No insight or reflection has been given. The NMC have not received any testimonials or evidence of further training or steps to address the conduct. Accordingly, the NMC are not

aware if Ms Shakes has carried out any further training or reflection demonstrating that she has remediated the concerns and as such there remains a continuing risk of harm to the public.

…

It is submitted that Ms Shakes' action would amount to a serious breach, falling far below the standards expected in the circumstances, that would be found deplorable by a fellow nursing professional. Ms Shakes failure to carry out observations on Patient A at 15-minute intervals, as required, placed Patient A at risk of harm. Further Ms Shakes dishonest conduct in seeking to falsify entries in Patient A's records demonstrates further misconduct on her part. She was seeking to conceal her earlier failings, which had endangered patient safety.

In addition, Miss Shakes practising when her NMC registration had lapsed demonstrated poor professional judgement on her part. By thereafter making a false declaration when seeking readmission to the NMC register, Miss Shakes acted in a dishonest manner. Accordingly, it is submitted that her actions must amount to misconduct.'

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 was of the view that Ms Shakes's actions did fall significantly short of the standards expected of a registered nurse, and that Ms Shakes's actions amounted to a breach of the Code. Specifically:

*‘**1 Treat people as individuals and uphold their dignity***
To achieve this, you must:

1.2 make sure you deliver the fundamentals of care effectively

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

8 Work co-operatively
To achieve this, you must:

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

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

8.6 share information to identify and reduce risk

10 Keep clear and accurate records relevant to your practice
This applies to the records that are relevant to your scope of practice. It includes but is not limited to patient records.
To achieve this, you must*:*

10.1 complete records at the time or as soon as possible after an event, recording if the notes are written some time after the event

10.2 identify any risks or problems that have arisen and the steps taken to deal with them, so that colleagues who use the records have all the information they need

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

13 Recognise and work within the limits of your competence
To achieve this, you must, as appropriate:

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

19 Be aware of, and reduce as far as possible, any potential for harm associated with your practice
To achieve this, you must:

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

20 Uphold the reputation of your profession at all times
To achieve this, you must*:*

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

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

23 ***Cooperate with all investigations and audits***
This includes investigations or audits either against you or relating to others, whether individuals or organisations. It also includes cooperating with requests to act as a witness in any hearing that forms part of an investigation, even after you have left the register.'

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct.

The panel determined that the nature of the charges relate to serious dishonesty and a failure to undertake fundamental nursing duties in relation to a high risk vulnerable patient. Ms Shakes failure to carry out observations on patient A every 15 minutes placed patient A at an increased risk of harm, resulting in serious consequences. The panel determined that Ms Shakes actively falsifying patient A's observation chart demonstrates dishonesty and amounts to misconduct.

The panel also determined that making false declarations to the NMC, when completing the readmission to the register documentation, further demonstrates Ms Shakes dishonesty and lack of integrity. The panel noted that Ms Shakes dishonesty demonstrates a pattern of repeated behaviour, and amounts to misconduct.

The panel found that Ms Shakes'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 went on to decide if as a result of the misconduct, Ms Shakes'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 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 finds that patient A was put at risk and caused themself physical harm as a result of Ms Shakes's misconduct. Ms Shakes's misconduct breached the fundamental tenets of the nursing profession and therefore brought its reputation into disrepute. The panel was satisfied that confidence in the nursing profession would be undermined if its regulator did not find charges relating to dishonesty extremely serious.

The panel concluded that all four limbs of *Grant* apply given the wide ranging concerns, and the dishonesty involved.

Regarding insight, the panel noted that Ms Shakes had made no submissions for the panel to consider at this meeting. The panel noted Witness 2's evidence, where she stated;

> *"Just before Christmas 2021, I spoke to Miss Shakes personally who apologised for what happened without me prompting."*

The panel noted that Ms Shakes apology to Witness 2 was non-specific.

The panel had no evidence before it demonstrating that Ms Shakes had an understanding of how her actions put Patient A at a risk of harm, nor has she shown any insight or reflection into matters found proved. Ms Shakes has not demonstrated an understanding of how her actions, lack of integrity, and dishonesty, have impacted negatively on the reputation of the nursing profession. As a consequence, the panel has concluded that there is a serious risk of repetition of Ms Shakes's misconduct.

The panel therefore decided that a finding of impairment is necessary on the grounds of public protection.

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

An informed member of the public would be seriously concerned about Ms Shake's conduct. Public confidence in the profession, and also the confidence of colleagues, would be undermined if a finding of impairment were not made. The panel therefore finds Ms Shakes's fitness to practice also to be impaired on public interest grounds.

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

Sanction

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

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

Representations on sanction

The panel noted that the NMC had advised Ms Shakes in writing that it would seek the imposition of a striking-off order if the panel found Ms Shakes's fitness to practise currently impaired.

Decision and reasons on sanction

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

As there were no submissions made by Ms Shakes for the panel to consider, the panel took into account the following aggravating features, and mitigating features, based on the background notes and evidence of the case within the documents attached to the NMC statement of case;

Aggravating features:

- No evidence of insight or remediation
- Conduct which put very vulnerable patients at risk of harm
- Serious dishonesty
- Breaching professional duty of candour

Mitigating features:

- A challenging and busy shift
- Power cut which led to reallocation of staff for the medication round

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 Ms Shakes's practice would not be appropriate in the circumstances. The Sanction Guidance (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 Ms Shakes'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 Ms Shakes's registration would be a sufficient and appropriate response. The panel is of the view that there are no practical or workable conditions that could be formulated, given the nature of the charges in this case, and the lack of engagement from Ms Shakes with The Trust's initial investigation and the subsequent NMC proceedings.

The panel determined that the dishonesty related misconduct identified in this case was not something that can be addressed through retraining, and demonstrates deep seated attitudinal issues. The panel concluded that placing conditions of practice on Ms Shakes's registration would not adequately address the seriousness of this case and would not protect the public, or sufficiently address the public interest.

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;*
- *…*
- *…*

The conduct, 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 breach of the fundamental tenets of the profession evidenced by Ms Shakes's actions is fundamentally incompatible with Ms Shakes remaining on the register.

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

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

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

Ms Shakes's actions were significant departures from the standards expected of a registered nurse, and are fundamentally incompatible with her remaining on the register. Ms Shakes's misconduct which was not collaborative, open and safe working practice, which was detrimental to colleagues and in turn put patient A at a significant risk of harm.

The panel has found that Ms Shakes's misconduct was very serious and to allow her to continue practising would undermine public confidence in the profession and in

the NMC as a regulatory body. Further, members of the public would be seriously concerned if she were to be allowed to continue to practice.

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

This order is necessary to mark the importance of the protection of patients, maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standards of behaviour required of a registered nurse.

This will be confirmed to Ms Shakes in writing.

Interim order

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

Representations on interim order

The panel took account of the statement of case from the NMC;

> *'If a finding is made that the registrant's fitness to practise is impaired on a public protection basis is made and a restrictive sanction imposed, we consider an interim order in the same terms as*

the substantive order should be imposed on the basis that it is necessary for the protection of the public and otherwise in the public interest.

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 with continued registrant, we consider an interim order of 12 Page 9 of 4 suspension should be imposed on the basis that it is otherwise in the public interest.'

Decision and reasons on interim order

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

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

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

That concludes this determination.