Nursing and Midwifery Council
Fitness to Practise Committee

Substantive Meeting
28 September 2021 and 5 October 2021

Nursing and Midwifery Council
Virtual Meeting

Name of registrant:	Miss Katerina Lorretta James
NMC PIN:	85I0431E
Part(s) of the register:	Registered Nurse – Sub Part 1 Adult Nursing – Level 1 – October 1992 Adult Nursing – Level 2 – December 1991
Area of registered address:	London
Type of case:	Misconduct
Panel members:	Deborah James (Chair, Lay member) Dr Natasha Duke (Registrant member) Kevin Connolly (Lay member)
Legal Assessor:	John Bromley-Davenport (28 September 2021) Nigel Mitchell (5 October 2021)
Panel Secretary:	Xenia Menzl (28 September 2021) Sophie Cubillo-Barsi (05 October 2021)
Facts proved:	Charges 1; 2; 3; 4; 5; 6; 7a), b), c), d) e), 8 a), b), c), d); 9a), b), c), d); 10 a) i), ii), iii), iv)
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 Miss James was not in attendance and that the Notice of Meeting had been sent to Miss James' registered e-mail address on 12 August 2021.

The panel took into account that the Notice of Meeting provided details of the allegation, the time, dates and the fact that this would be a virtual meeting.

The panel accepted the advice of the legal assessor.

In the light of all of the information available, the panel was satisfied that Miss James 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 and band 6 school nurse, between March 2017 and September 2017:

1. *For one or more of your patients as set out in Schedule A, did not review and/or update and/or complete the care plan or alternatively, did not ensure it was updated and/or completed;* **[Proved]**

2. *Did not meet with one or more of your patients as set out in Schedule B;* **[Proved]**

3. *Did not undertake an assessment of one or more of your patient [sic] as set out in Schedule C;* **[Proved]**

4. *Did not consider whether a referral to an external agency and/or health professional was required to sufficiently support one or more of your patient's needs as set out in Schedule D;* **[Proved]**

5. *For one or more of your patients as set out in Schedule E, did not liaise with their parents and/or with external agencies involved in their care or alternatively, did not liaise with them sufficiently;* **[Proved]**

6. *For one or more of your patients as set out in schedule F, did not provide any and/or sufficient information to the school about their needs to assist/support the school in producing and/or updating the patient's care plan/s;* **[Proved]**

7. *For one or more of your patients that were subject to a child protection plan, you did not provide any and/or sufficient care in that you:*

    a) *failed to prepare a safeguarding plan/report as set out in Schedule G;* **[Proved]**
    b) *did not act on the patient's care plan and/or safeguarding plan as set out in Schedule H;* **[Proved]**
    c) *did not provide any and/or sufficient information about the patient to external agencies involved in their care as set out in Schedule I;* **[Proved]**
    d) *did not prepare and/or produce a safeguarding report prior to a safeguarding meeting/child protection case conference as set out in schedule J;* **[Proved]**
    e) *did not attend a safeguarding meeting/child protection case conference as set out in schedule K;* **[Proved]**

8. *Failed to maintain accurate records in that you:*

    a) *on one or more occasions, did not complete a record of your meeting in the patient's progress notes as set out in Schedule L;* **[Proved]**
    b) *on one or more occasions, did not complete a record of your meeting within 24 hours as set out in Schedule M;* **[Proved]**

c) *You did not make it clear that the record of your meeting with Child 22 was being made retrospectively;* **[Proved]**
d) *You did not complete a health review template for Child 37;* **[Proved]**

9. *On health concerns being raised to you by Child 19, you:*

a) *Did not undertake any and/or sufficient action to investigate these concerns;* **[Proved]**
b) *Did not liaise with the patient's General Practitioner and/or parents in respect of their symptoms and/or concerns being raised;* **[Proved]**
c) *Did not refer the patient to their General Practitioner;* **[Proved]**
d) *Did not undertake a further assessment of the patient;* **[Proved]**

10. *In respect of Child 20, you:*

a) *Failed to maintain accurate records in that you:*
   i) *did not complete a record of your meeting with the patient on 22 June 2017 in their progress notes, or in the alternative;* **[Proved]**
   ii) *did not complete a record of your meeting within 24 hours of your meeting;* **[Proved]**
   iii) *incorrectly recorded that your meeting took place on 26 June 2017;* **[Proved]**
   iv) *did not make it clear that this record was being made retrospectively;* **[Proved]**

AND by reason of your misconduct, your fitness to practise is currently impaired.

Schedules:

Schedule A	Schedule B	Schedule C	Schedule D
1. Child 1	1. Child 11	1. Child 7	1. Child 15
2. Child 2	2. Child 12	2. Child 8	2. Child 34
3. Child 3	3. Child 14	3. Child 9	3. Child 11
4. Child 4	4. Child 15	4. Child 10	
5. Child 5	5. Child 18	5. Child 11	
6. Child 6	6. Child 26	6. Child 13	
7. Child 16	7. Child 39	7. Child 14	
8. Child 9	8. Child 37	8. Child 15	
9. Child 10	9. Child 44	9. Child 26	
10. Child 36	10. Child 25	10. Child 39	
	11. Child 30	11. Child 44	
	12. Child 29	12. Child 25	
	13. Child 34	13. Child 29	
	14. Child 45	14. Child 34	
	15. Child 7	15. Child 45	
	16. Child 46		
	17. Child 20		
	18. Child 8		
	19. Child 47		

Schedule E	Schedule F	Schedule G	Schedule H
1. Child 1 2. Child 2 3. Child 3 4. Child 4 5. Child 5 6. Child 6 7. Child 8 8. Child 11 9. Child 12 10. Child 13 11. Child 24 12. Child 23 13. Child 29 14. Child 34 15. Child 21 16. Child 43	1. Child 1 2. Child 2 3. Child 3 4. Child 4 5. Child 5 6. Child 6 7. Child 7 8. Child 8 9. Child 9 10. Child 10 11. Child 11 12. Child 12 13. Child 13 14. Child 14 15. Child 15	1. Child 23 2. Child 7 3. Child 11 4. Child 43	1. Child 26 2. Child 39 3. Child 44 4. Child 25

Schedule I	Schedule J	Schedule K
1. Child 26 2. Child 37 3. Child 44 4. Child 25 5. Child 7	1. Child 26 2. Child 25 3. Child 34 4. Child 21	1. Child 30 2. Child 35 3. Child 7 4. Child 8

Schedule L

Child	Meeting/s date	Type of meeting
Child 7		
Child 48		
Child 20	28 June 2017	Patient
Child 21	i) 5 May 2017; ii) 10 May 2017; iii) 21 June 2017; iv) 7 July 2017;	Patient
Child 22	20 June 2017	Patient
Child 23	11 April 2017	Patient
Child 25	27 June 2017	Patient
Child 26	8 May 2017	Patient
Child 27	i) 21 June 2017 ii) 17 July 2017	i) Case conference ii) Patient
Child 28	i) 21 June 2017 ii) 22 June 2017 iii) 14 July 2017	i) Child protection ii) Patient iii) Patient
Child 29	i) 21 June 2017 ii) 11 July 2017 iii) 14 July 2017	i) Case conference ii) Patient iii) Patient
Child 31 & 32	5 July 2017	Patient

Child 34	20 April 2017	Patient
Child 35	30 May 2017	Patient
Child 13	19 April 2017	Patient
Child 36	i) 25 May 2017 ii) 13 June 2017 iii) 7 July 2017	i) Core group meeting ii) Core group meeting iii) Child protection conference
Child 37	9 May 2017	Patient
Child 40	10 July 2017	Patient
Child 41	10 July 2017	Patient
Child 42	11 July 2017	Patient
Child 43	13 July 2017	Patient

Schedule M

Child	**Meeting/s date**	**Date record made**
Child 22	19 June 2017	21 June 2017
Child 23	23 May 2017	26 July 2017
Child 24	v) Unknown vi) 10 May 2017	i) 15 May 2017 ii) 23 May 2017
Child 25	12 May 2017	11 July 2017

Background

Miss James was first admitted to the NMC Register in December 1991 as a Registered Nurse. She commenced employment with North East London Foundation Trust (NELFT) as a Band 6 School Nurse in April 2003.

[PRIVATE]

[PRIVATE]

In April 2017, there was a restructure of the school nursing teams and Miss James was moved to Comely Bank (CB). She was allocated to work with six schools: two secondary schools and four primary schools. The area where the Registrant worked had a high level of deprivation and vulnerable children. This included gang culture, high levels of domestic violence and pupils often had complex medical and social needs. Miss James was expected to manage her own caseload of schools and children within the named schools, including those with complex needs. Her role was to support the school to deliver services to promote the physical and mental well-being of the children, which involved safe-guarding vulnerable children.

Concerns about Miss James' practice began to emerge following a complaint from one of the secondary schools (the School). Concerns were raised informally to NELFT by members of the Miss James' team and by schools within her caseload, [PRIVATE] When contacted for more detail in relation to the concerns raised, Frederick Bremmer School (FBS) provided an outline on 27 April 2017. The concerns were about Miss James' record keeping on the electronic system RiO, and included:

- refusing to complete care plans when requested and telling the school that they should complete these
- refusing to provide the contracted drop-in services
- refusing to see children that were referred when she deemed the referral to be unnecessary

NELFT took steps in compliance with its Disciplinary Policy to address the concerns raised with Miss James and provide support.

On 22 June 2017, colleagues from CB also raised concerns about Miss James' record keeping. These included:

- entries not recorded in a timely manner
- that there was no evidence that she had met with children or kept appointments that were listed in her RiO diary

On 25 July 2017, Colleague A held a meeting with Miss James and her direct line manager Colleague B. [PRIVATE] Colleague A encouraged her to apply for another access to work assessment, as self-referrals were the only way to be assessed at that time. However, a self-referral was not made. The outcome of the meeting was that Miss James was placed on an agreed Personal Improvement Plan (PIP). Part of the PIP included her working during the school holidays to catch up with her RiO notes. However, it is alleged she did not do this. Miss James returned to work in September for one day [PRIVATE]

The Trust investigated the concerns, but the Miss James did not cooperate with the investigation. This led to a disciplinary hearing on 12 November 2018, which she did not attend. The outcome of this was that Miss James was dismissed.

On 14 November 2018 the NMC received a referral regarding the Miss James' fitness to practise from the Trust. The referral relates to a number of concerns raised whilst Miss James was employed at CB working with a number of schools between April 2017 and 4 September 2017. The allegations were that Miss James failed to keep accurate records of clinical interventions and failed to provide safe patient care.

Miss James did not engage or cooperate with the Trust in relation to the allegations at local level. She has not engaged with the NMC investigation and has not responded to the allegations against her. Her current employment status is unknown.

Facts

In reaching its decisions on the facts, the panel took into account all the documentary evidence in this case together with the written 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:

- Ms 1: Locality Manager for Health Visitors and School Nurses at North East London Foundation Trust;

- Ms 2: Operational Lead for Targeted Children's Health Services in North East London Foundation Trust;

The panel was of the view that Ms 1's extensive witness statement is knowledgeable and detailed. However, it determined, on its own volition, to examine the records provided. It was of the view that the witness statement was supported by the evidence that had been provided to the NMC, that it is accurate and reflects the events truthfully. The panel determined that it could rely on this Ms 1's witness statement to form a view on the charges. The panel therefore determined to only give one example per charge, however, it was content that the evidence shows that all children as listed in the schedule were covered.

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 disputed charges and made the following findings.

Charge 1

1. *For one or more of your patients as set out in Schedule A, did not review and/or update and/or complete the care plan or alternatively, did not ensure it was updated and/or completed;*

This charge is found proved.

In reaching this decision, the panel took into account Ms 1 and Ms 2's witness statements, the School Nurse Job Description and records for the Children as set out in Schedule A; this charge relates to nine children.

The panel noted the School Nurse Job Description, which states the following under Governance:

'

- *Ensure that individualised plans are developed with children and young people and their carers.*
  […]
- *Complete accurate, contemporaneous record keeping, inclusive of electronic record outcomes in a timely manner.*
- *Oversee and maintain high standards of record keeping in practice. Accurately document and maintain written and electronic records which are professional, accurate, contemporaneous and legible according to Trust standards.*

- *Support collecting data to inform the performance management framework for the service ensuring team members are completing timely and accurate electronic data collection via RiO/System One.*'

The panel also noted the written statement to the NMC by Ms 1 which explains the patient record system:

'*Rio is the electronic record system used at NELFT which support and integrated electronic health record to enable an efficient approach to healthcare and it manages both administrative and clinical processes (more on this below). Rio caseloads for School Nurses contain all the patient within the UPS and UPPS groups but not patients in the US Group. Children within the US group can be accessed on Rio to document universal interventions.* […]

All nurses receive mandatory training on how to use Rio as an integral part of the nurses' day to day work. A school nurse, in our organisation, plans their day using the diary function on Rio. Extensive training is provided and there is the option of further training should the nurse require this. Rio is used to record every activity undertaken by the nurse during their working day. This will include all training, activities, meeting with external agencies as well as school visits and all interactions with pupils and their caseloads.

[…]

Rio provides a very helpful link between the nurses' online diaries and their patients' records from her diary (as long as a patient activity has been created) and complete an entry on the records. However, this can only happen if you use Rio correctly, for example create a diary entry via the patients' records so that a direct link exists. This assist nurses and makes the system a lot more efficient.

[…]

A school nurse has a duty to record all interactions with pupils they have clinical contact with/interventions on Rio so that there is continuity of care and an audit trail because the schools also have access to their pupil records on Rio. '

And further:

'*I would expect that the School Nurse would know how to conduct an assessment of a child's mental and physical health, assess any risk the child may be under, put a care plan in place and then assess regularly whether this plan remains appropriate or not. The care plan would detail how often the child would need to be seen, what aspects of their health requires monitoring and what agencies the nurse would need to liaise with on the patient's behalf.*'

Ms 1 made clear in her statement that failure to keep records was a breach of the Trust's policy on record keeping, and records should be accurate, complete and concise.

The panel concluded that Miss James had a duty to update records which would include care plans for the children as set out in Schedule A.

The panel further concluded that the children that were registered on the Rio system were put on it for a reason, including vulnerability and/or medical needs. It noted that every activity undertaken during the day was supposed to be recorded on Rio. The panel noted Ms 1's extensive statement in which she explains her investigation in detail and the copies of the patient records provided to it. The panel compared the records for the children on Schedule A and could see that no entries were recorded during the time in question for these children. It noted that there was no evidence on the records that Miss James liaised with agencies, or updated on any steps taken to follow the care plan for the children on Schedule A.

The panel noted that there was a detailed entry on the Rio system regarding Child 5, which showed that they attended hospital following an assault and police involvement, and included subsequent notes added by a social worker. However it noted that no

entry had been made by Miss James and that no further notes had been added by her regarding a follow up or care plan regarding this child.

The panel was of the view that the absence of any entries on the Rio system demonstrates that Miss James has not undertaken any steps to complete care plans for the children on schedule A.

The panel was therefore satisfied, that on the balance of probabilities, it is more likely than not that Miss James did not review and/or update and/or complete the care plan or for her patients as set out in Schedule A and did not ensure it was updated and/or completed

Charge 2)

2. *Did not meet with one or more of your patients as set out in Schedule B;*

This charge is found proved.

In reaching this decision, the panel took into account Ms 1 and Ms 2's witness statements, the School Nurse Job Description and records for the Children as set out in Schedule B; which relates to 19 children.

The panel noted the following duties in the School Nurse Job Description which are listed under clinical skills:

> *'Monitor the health of School aged children, and to involve the family as required in promoting optimum health and development of all children.'*

The panel also noted Ms 1's written statement to the NMC which sets out the consequences of not meeting patients:

> '*Failing to see these pupils meant that there were missed opportunities to assess their physical and mental health needs. These children were already considered*

vulnerable which was why they were part of Ms James's caseload. The lack of contact may have increased this vulnerability because of other agencies involved in their care would not have had the breadth of information a school nurse provides for them to decide what next steps to take, including whether to continue to involve social services in a child's life.'

She further states on the duty of a school nurse to meet with children:

'*If a parent or a school requests that a nurse sees a child, it is the school nurse's duty to do so because this is part of the contractual agreement the NELFT has negotiated with the schools in its catchment area.*'

The panel concluded that Miss James had a duty to regularly meet with the children in her care in order to assess their physical and mental wellbeing.

The panel noted the records of all children listed in Schedule B. The panel noted that none of the children had meetings recorded with Miss James on the RiO system.

The panel looked at Child 11 of whom there were concerns regarding their diet and weight, speech and language development, Attention Deficient Hyperactivity Disorder (ADHD) symptoms, bed wetting and medication. The panel noted that Ms 1 states:

'*during the time Ms James was the nominated school nurse for FBS, the school had concerns due to Ms James not having seen this child to assess him. This was despite Ms James being requested to do so by the school.'*

The panel noted that there was no evidence that before it that shows that Miss James had assessed Child 11. It accepted Ms 1's statement and concluded that it is more likely than not that Miss James did not meet with the children as set out in Schedule B.

The panel was therefore satisfied, that on the balance of probabilities, it is more likely than not that Miss James did not meet with one or more of her patients as set out in Schedule B.

Charge 3)

3. *Did not undertake an assessment of one or more of your patient [sic] as set out in Schedule C;*

This charge is found proved.

In reaching this decision, the panel took into account Ms 1 and Ms 2's witness statements, the School Nurse Job Description and records for the Children as set out in Schedule C; which includes 15 children.

The panel noted one of the key responsibilities as set out in the School Nurse Job Description:

> '• *To Identify, prioritise, develop and implement programmes of care to meet individual and local needs, taking into account cultural diversity. This will be achieved through evidence based assessments, effective care planning and implementation of a range of support packages for individual families, targeting the most vulnerable families and groups utilising best available evidence.*
> […]
>
> • *To identify the needs of individual children, parents and families (including safeguarding needs) and refer or direct them to existing local services, thereby promoting early intervention.*'

The panel also noted Ms 1's statement:

> '*NELFT has also implemented its own case stratification procedure. This is the assessment that must be carried out by every nurse when they become responsible for a patient. This assessment covers what is called the assessment framework, which outlines a triangle of needs taking into account the child's physical health, development and support network.*

This assessment is then used as the basis of all other actions carried out by the nurse on a patient's case. For example, any necessary referrals to the external agencies such as social care doctors. This assessment is also used to measure any risk to the child from their health or home background.'

The panel then looked at the records for the children as set out in Schedule C. It particularly noted Child 7. Ms 1 states the following regarding Child 7 and sets out why it was important for Miss James to undertake an assessment:

'*This child had Type 1 Diabetes. This would have made him more vulnerable and in need of support because it would have caused him emotional distress as Type 1 diabetes in children is treated with an insulin pump attached to their stomachs. The insulin pump is a little bigger than the size of a match box. The diabetes would also have impacted his ability to take part in P.E. which would have meant that he required emotional support to cope.*

Having Type 1 diabetes can lead to very serious consequences if the child's blood sugar levels are not monitored regularly.

This child required a care plan but his records attached above show no evidence that this child was ever assessed by Ms James and his progress notes do not show that there was ever a care plan put together in the period that Ms James was his school nurse.'

The panel noted that in the records of Child 7, the care was planned to be handed over to the school nurse, but there were no entries by Miss James.

The panel noted Ms 1's comments regarding Child 8:

'*This child suffered from Granulomatosis with polyangiitis. This is a rare and serious condition because it causes the blood cells to become inflamed. The child also suffered with childhood arthritis. The progress notes show that this child had significant needs and needed continued support from the school*

nursing team. Therefore this child required a care plan but there was not evidenced [sic] she ever saw him to asses [sic] or produce a care plan.'

The panel noted that there was no evidence that before it to show that Miss James has assessed Child 7, or 8, or any of the other children set out in Schedule B. It accepted Ms 1's statement and concluded that it is more likely than not that Miss James did not meet with the children as set out in Schedule B to undertake an assessment.

The panel was therefore satisfied, that on the balance of probabilities, it is more likely than not that Miss James did not undertake an assessment of one or more of her patients as set out in Schedule C.

Charge 4)

4. *Did not consider whether a referral to an external agency and/or health professional was required to sufficiently support one or more of your patient's needs as set out in Schedule D;*

This charge is found proved.

In reaching this decision, the panel took into account Ms 1 and Ms 2's witness statements, the School Nurse Job Description and records for the Children as set out in Schedule D; which includes three children.

The panel noted the School Nurse Job Description states:

'• *To identify the needs of individual children, parents and families (including safeguarding needs) and refer or direct them to existing local services, thereby promoting early intervention.*'

The panel noted the records of all the children listed in Schedule D. The panel noted that none of the children had referrals recorded by Miss James on the RiO system nor were there any notes that reflected assessments showing that Miss James had

determined whether a child should be referred to external agencies or health professionals.

The panel then looked at the records for the children as set out in Schedule D. It particularly noted Child 34.

Ms 1, in her written statement explains why Miss James had a duty to assess whether Child 34 needed a referral:

> '*This child was exposed to domestic violence at home and her parents were also experiencing financial worries. The child also required emotional support. There were also concerns that this child was subject to neglect as the mother did not engage with the school in relation to their concerns. This child was subject to a child protection plan but there is no evidence that this child was ever seen by Ms James. This patient's case was then downgraded to the child in need category and it is clear that this decision was made without any assessment having been carried out by a school nurse.*
>
> *There is no evidence that Ms James liaised with any other agencies involved in this child's care. It is also clear that she did not complete a Missed Appointment Form or speak to safeguarding about the mother's lack of attendance at these meetings.*
>
> *There is the potential that Ms James's lack of clinical intervention meant that this patient was not receiving the level of involvement form social services that was required. This is because the other agencies that made the decision to downgrade her to child in need were not aware of all factors surrounding this child because Ms James did not know as she had not met with the child.'*

The panel was of the view that this example shows how important it was to refer children to external agencies or health professionals as Child 34 was exposed to domestic violence. The panel noted that there was no evidence that an assessment was carried out for Child 34, nor that the child had been referred to an external agency. The

panel did not have any evidence before it to show that Miss James had done so for any of the children on Schedule D.

The panel was therefore satisfied, that on the balance of probabilities, it is more likely than not that Miss James did not consider whether a referral to an external agency and/or health professional which was required to sufficiently support one or more of her patient's needs as set out in Schedule D.

Charge 5)

5. *For one or more of your patients as set out in Schedule E, did not liaise with their parents and/or with external agencies involved in their care or alternatively, did not liaise with them sufficiently;*

This charge is found proved.

In reaching this decision, the panel took into account Ms 1 and Ms 2's witness statements, the School Nurse Job Description and records for the Children as set out in Schedule E; which includes 16 children.

The panel reminded itself of the School Nurse Job Description and the fact that a school nurse has a duty to identify the needs of children and refer or direct them to existing local services, promoting early intervention.

It also noted that the job description states:

> '• *Monitor the health of School aged children, and to involve the family as required I promoting optimum health and development of all children*.'

The panel further noted Ms 1's statement:

> '*The following children suffered with nut allergies and should have been assessed by Ms James with a view to producing or updating their information for*

the schools to accordingly amend the care plans. As the new school nurse when she took over she would have had to review all the patient that had allergies and asthma with a view to providing information for the case plans to be updated. There is no evidence on the records that Ms James ever saw these children, or liaised with the other agencies involved in their care. There is also no evidence that Ms James liaised with the school to provide even basic information to assist them in producing the care plans or updating existing ones.'

With regards to Child 11 Ms 1 states

'*This child suffered with asthma and required a care plan but there is no evidence that Ms James ever met to assess this child for the care plan or liaised with his GP or parents.*'

Ms 1 states with regards to Child 13:

'*Before this case was handed over to Ms James, there had been regular contact between the family and the school nurse* […] *This child suffered with a condition that caused incontinence and therefore required a care plan. There is no evidence that Ms James ever met this child. There is also no evidence that Ms James ever liaised with any of the other medical professionals working on this child's case.*'

The panel accepted Ms 1's written evidence and noted that it was corroborated by the evidence provided to the panel, namely that the RiO system did not show any entries relating to the children on Schedule E with regards to liaising with children's parents or external agencies.

The panel was therefore satisfied, that on the balance of probabilities, it is more likely than not that for one or more of her patients as set out in Schedule E, Miss James did not liaise with their parents and/or with external agencies involved in their care or alternatively, did not liaise with them sufficiently.

Charge 6)

6. *For one or more of your patients as set out in Schedule F, did not provide any and/or sufficient information to the school about their needs to assist/support the school in producing and/or updating the patient's care plan/s;*

This charge is found proved.

In reaching this decision, the panel took into account Ms 1 and Ms 2's witness statements, the School Nurse Job Description and records for the Children as set out in Schedule F; which includes 15 children.

The panel first noted the School Nurse Job Description which states:

> '• *Provide and receive complex information in relation to children and their families and communicate this information in a sensitive and professional manner.*
>
> […]
>
> • *To be able to effectively communicate with colleagues, peers, senior managers and clinical /operational Leads within the Trust. Ensure effective communication with parents/carers for interventions being undertaken.*
> • *Liaise with Safeguarding Advisor/Named Nurse Safeguarding Children regarding children at risk and families in need.*'

The panel therefore concluded that Miss James had a duty to provide information to the school about the needs of the children as set out in Schedule F by producing or updating the patients' care plans to assist and support the school.

The panel considered the documentary evidence regarding the children as set out in Schedule F and concluded that there was no evidence before it to show that Miss James did provide information to the school about the children's needs.

The panel noted again that Child 13 for example, suffered from a nut allergy. It reminded itself of its findings regarding charge 5. It further noted that Ms 1 states:

> '*The fact that Ms James recorded that she was asked by the school to see this child* […] *shows that she knew she was under a duty to do so and yet still failed to do this. This child may still have been receiving care from other medical professionals but it was Ms James's role to ensure the school were aware of her needs and co-ordinate any care that she may need whilst in school however there is no record that she did this.*'

The panel noted the entry on the RiO system made by Miss James with regard to child 13, dated 12 May 2017:

> '*School nurse made enquiries regarding [Child 13]'s welfare at the drop in today at school with the welfare person [Welfare Person's Name], who reported that [Child 13] had not been seen, or attended the welfare room. No complaints have been received.*
>
> *Plan*
>
> *To respond to request for intervention, advise, support or information.'*

The panel agreed with Ms 1 that this entry shows that Miss James knew that she had a duty to liaise with the schools and provide them with sufficient information about the needs of Child 13. Whilst the child's records show eleven entries after this time by other professionals, there was not a single entry by Miss James. The panel concluded that to assess the child and to provide the school with information Miss James should have been meeting with the child regularly and developed a care plan. However, when considering the entries on the RiO system made by Miss James with regard to any children on Schedule F, there was no evidence before it to show that Miss James has done so. The panel therefore concluded that it is more likely than not that Miss James

did not produce or update the patients' care plans nor did she provide the schools with enough information to enable it to assist and support these children.

The panel was therefore satisfied, that on the balance of probabilities, it is more likely than not that for one or more of her patients as set out in Schedule F, Miss James, did not provide any and/or sufficient information to the school about their needs to assist/support the school in producing and/or updating the patient's care plan/s.

Charge 7a)

7. *For one or more of your patients that were subject to a child protection plan, you did not provide any and/or sufficient care in that you:*
   a) failed to prepare a safeguarding plan/report as set out in Schedule G;

This charge is found proved.

In reaching this decision, the panel took into account Ms 1 and Ms 2's witness statements, the School Nurse Job Description and records for the Children as set out in Schedule G; which includes four children.

The panel noted the following section in the School Nurse Job Description:

> '• *To operate NELFT's Safeguarding Policies, Standards and Procedures, recognising and taking appropriate action in relation to children where there is suspicion of abuse.*
> • *To participate in strategy meetings, case conferences, providing reports a required and to have clinical and safeguarding supervision as per policy for Safeguarding children.*'

The panel concluded that Miss James had a duty to prepare a safeguarding plan and report for the children any children that were subject to a child protection plan.

The panel noted that there was no evidence before it to show that Miss James had prepared a safeguarding plan for any of the children as set out in Schedule G.

The panel noted Ms 1's statement with regard to Child 7:

> '*This patient was subject to a child protection plan. There is no record of any Safeguarding Plan having been produced for this child.*
>
> *On 27 June 2017, Ms James's diary states that she was due to attend a case conference regarding this child. However, there is no record in this patient's progress notes to indicate that she prepared for this meeting as there is no safeguarding plan or report. Furthermore, there are no notes of the meeting. This would suggest that she did not attend.*
>
> […]
>
> *This case was later closed by Child Social Care. However, due to Ms James's lack of clinical intervention in this case it is not clear that the decision to close this case was mad with all for the relevant facts known which would have been a breach of her duty of care if she was not in a position to give a thorough handover to the other agencies involved in this child's care.*'

The panel also noted Ms 1's statement with regards to Child 11:

> *'This child had a number of complex needs including that he was hyperactive and demonstrated destructive behaviour in school. He was also self-harming by hitting himself repeatedly. He was subject to a child protection plan.*
>
> *The child's family had a history of requiring support from external agencies such as social services…By the time he was assigned to Ms James' case load he had been a 'child in need' for his whole life.*

This meant that he was extremely vulnerable and Ms James had a duty to ensure that there was a plan of action in place to address his needs but his progress notes do not show this. However he only received minimal clinical intervention from Ms James

…

There is also evidence that she told the child that he needed to speak to his parents regarding healthy eating because he was overweight but this should have been done by her and not ask [sic] him to do this, even if there was a language barrier…She potentially risked causing further harm, abuse or neglect by asking a child who was vulnerable to discuss this with their potential abuser.

In my professional opinion, this is a breach of her duty of care to a vulnerable child. I consider this to be a startlingly alarming case and a serious neglect of her duty…

Failure to intervene and escalate this case may have caused the child further neglect and meant that the school could no longer cope with him in mainstream education.'

The panel noted that there was no evidence before it to show that Miss James had provided care to the children subject to a child protection plan nor that she prepared safeguarding plans for the children set out in Schedule G. In absence of any evidence that Miss James has done this, it determined that it is more likely than not that Miss James provided sufficient care and that she failed to prepare a safeguarding plan for these vulnerable children.

The panel was therefore satisfied, that on the balance of probabilities, it is more likely than not that for one or more of her patients that were subject to a child protection plan, Miss James, did not provide any and/or sufficient care in that she failed to prepare a safeguarding plan/report as set out in Schedule G.

Charge 7b)

7. *For one or more of your patients that were subject to a child protection plan, you did not provide any and/or sufficient care in that you:*
   b) *did not act on the patient's care plan and/or safeguarding plan as set out in Schedule H;*

This charge is found proved.

In reaching this decision, the panel took into account Ms 1 and Ms 2's witness statements, the School Nurse Job Description and records for the Children as set out in Schedule H; which includes four children.

The panel reminded itself of the School Nurse Job Description and that fact that it had already determined that it was Miss James' duty to act on a patient's care or safeguarding plan.

The panel noted the documentary evidence put before it regarding the children as set out in Schedule H. The panel noted the below in particular.

It noted Ms 1's statement regarding Child 44:

> '*This child was subject to a child protection plan. However, there is no evidence that* [Miss James] *ever saw this child. Furthermore, there are no progress updates on his file and no forms, reports or general safeguarding templates have been completed.*'

The panel noted that on 13 July 2017 the child's notes show that Miss James recorded that she had received a safe guarding plan from another health professional. The plan stated that the newly allocated school nurse should get a full understanding of the family's history and service involvement over the last year by reading the health and social records, carry out a health assessment, to liaise with other health professionals, and to escalate concerns if necessary. There is no record of Miss James following this

plan. In the absence of such evidence the panel accepted Ms 1's evidence and determined that it is more likely than not that Miss James did not act on the children's care or safeguarding plan.

The panel was therefore satisfied, that on the balance of probabilities, it is more likely than not that for one or more of her patients that were subject to a child protection plan, Miss James, did not act on the patient's care plan and/or safeguarding plan as set out in Schedule H.

Charge 7c)

7. *For one or more of your patients that were subject to a child protection plan, you did not provide any and/or sufficient care in that you:*
   c) *did not provide any and/or sufficient information about the patient to external agencies involved in their care as set out in Schedule I;*

This charge is found proved.

In reaching this decision, the panel took into account Ms 1 and Ms 2's witness statements, the School Nurse Job Description and records for the Children as set out in Schedule I; which includes five children.

The panel reminded itself of its findings in charge 7a) and that it had determined that it was Miss James' duty to provide information about the children to eternal agencies involved in their care.

The panel noted Ms 1's evidence with regards to Child 25:

> *'This child's progress notes state that Ms James attended a child protection core group on 23 May 2017. However, his notes do not contain a plan or report and there is no evidence that she ever met with this child or liaised with any of the other medical professionals working to support this child.*

The progress notes show that she had Safeguarding supervision from [Mr 1] who according to the record specifically required her to make an assessment of this child's health and weight. She wrote [Mr 1]'s request into this child's progress notes but then did not do this.'

The panel also reminded itself that it has not been provided with any evidence that shows that Miss James had seen the children nor that she has set up a care or safeguarding plans. The panel therefore determined, that due to the absence of any records that Miss James had not seen the children as required. The panel determined that without seeing the children it would have been impossible for Miss James to provide information about them to external agencies such as the child protection services. It concluded that in the absence of any assessment there was no information that Miss James could have provided to external agencies involved in the children's cases.

The panel was therefore satisfied, that on the balance of probabilities, it is more likely than not that for one or more of her patients that were subject to a child protection plan, Miss James, did not provide any and/or sufficient information about the patient to external agencies involved in their care as set out in Schedule I.

Charge 7d)

7. For one or more of your patients that were subject to a child protection plan, you did not provide any and/or sufficient care in that you:

d) did not prepare and/or produce a safeguarding report prior to a safeguarding meeting/child protection case conference as set out in schedule J;

This charge is found proved.

In reaching this decision, the panel took into account Ms 1 and Ms 2's witness statements, the School Nurse Job Description and records for the Children as set out in Schedule J; which includes four children.

The panel reminded itself of its findings in charge 7a) and that it had determined that it was Miss James' duty to provide information about the children to eternal agencies involved in their care. The panel was of the view that this includes a safeguarding report prior to any safeguarding meeting or child protection case conference.

The panel noted Ms 1's statement with regard to Child 26, who was subject to child protection measures:

> '*This child was subject to a child protection plan. There were concerns of neglect and his parents were not engaging with the school or social services.*
>
> *There is no evidence that Ms James ever saw this child. There was a case conference on 21 June 2017 for which there is a record that Ms James attended but there is no record that she acted on the safeguarding plan agreed. Also, although there were progress notes, there was no safeguarding report uploaded prior to the meeting for the other agencies to read and review. This would have impacted the meeting as they would not be prepared and she would not be able to contribute because she had not seen the child.*'

The panel noted the documentary evidence and concluded that Miss James had not seen the children as set out in Schedule J. The panel determined that without seeing the children it would have been impossible for Miss James to provide information about them in a safeguarding report to external agencies such as the child protection services.

The panel was therefore satisfied, that on the balance of probabilities, it is more likely than not that for one or more of her patients that were subject to a child protection plan, Miss James, did not prepare and/or produce a safeguarding report prior to a safeguarding meeting/child protection case conference as set out in schedule J.

Charge 7e)

7. For one or more of your patients that were subject to a child protection plan, you did not provide any and/or sufficient care in that you:

e) *did not attend a safeguarding meeting/child protection case conference as set out in schedule K;*

This charge is found proved.

In reaching this decision, the panel took into account Ms 1 and Ms 2's witness statements, the School Nurse Job Description and records for the Children as set out in Schedule K; which includes four children.

The panel again, reminded itself of its findings regarding Miss James' duty as a School Nurse, which included attending safeguarding meetings and child protection case conferences.

The panel noted Ms 1's written statement with regard to Child 35:

> '*The only entry Ms James made on this child's records was to say that she had advised the other agencies attending a Child In Need conference but she does not give a reason why or give the specific date of this meeting.*
>
> *These are very important meetings and should be attended by the nurse allocated to the case. Other clinical interventions have to come second to these meetings. I consider her failure to attend this meeting, without a clear reason as to why she did not, to be a breach of her duty of care.*'

The panel further noted Ms 1's statement, specifically:

> *'Also failure to carry out these assessments means that she would not have been prepared for the meetings which may be a reason why she chose not to attend so many. If she had attended she would not have been able to be a part of the professionals' dialogue in relation to these patients' cases and would not be able to constructively challenge other professionals' opinions. This would be particularly important in decisions such as whether to remove the patient from the*

safe guarding registers which could significantly impact future support and guidance the patient receives.'

The panel further noted that there was no evidence before it that Miss James had attended any of the child protection or safeguarding meetings in relation to the children as set out in schedule K.

The panel was therefore satisfied, that on the balance of probabilities, it is more likely than not that for one or more of her patients that were subject to a child protection plan, Miss James, did not attend a safeguarding meeting/child protection case conference as set out in schedule K.

Charge 8a)

8. Failed to maintain accurate records in that you:

a) on one or more occasions, did not complete a record of your meeting in the patient's progress notes as set out in Schedule L;

This charge is found proved.

In reaching this decision, the panel took into account Ms 1 and Ms 2's witness statements, the School Nurse Job Description and records for the Children as set out in Schedule L; which includes 22 children.

The panel noted the following under the record keeping section in the School Nurse Job Description:

'• *Oversee and maintain high standards of record keeping in practice. Accurately document and maintain written and electronic records which are professional, accurate, contemporaneous and legible according to Trust standards.*

• Support collecting data to inform the performance management framework for the service ensuring team members are completing timely and accurate electronic data collection via RiO/System One.'

The panel noted Ms 1's statement:

'[record keeping] is a basic aspect of training to be a nurse because it is one of the most important duties. Entering inaccurate or outdated information…would be serious because all the health and social care professionals working on the child's case will base their steps on this information which may cause harm to the child if it is inaccurate or if they are unaware of potentially important updates in the child's life.'

The panel further noted that there were numerous occasions when it appeared that Miss James did not keep records but her diary showed she had a meeting. For example, in the notes of Children 31 and 32, Ms 1 stated:

'*Their mother suffered from mental health issues, particularly psychosis, and there were previous recorded instances of domestic violence. Their mother was from Turkey and did not have a support network in London.*

Ms James's diary shows that she was seeing both of these children on 5 July 2017 but there was no record of this in the children's progress notes.'

The panel concluded that Miss James had a duty to keep accurate records, including recording meetings with patients in their progress notes as set out in Schedule L.

The panel noted the documentary evidence with regards to the children as set out in Schedule L. It noted that there was no evidence before it that demonstrates that Miss James had completed records of meetings with the children as set out in Schedule L in the patient's progress notes. The panel was therefore of the view, that it is unclear whether Miss James had met with the children in question or if she has not complied with the record keeping standards expected of her.

The panel was therefore satisfied, that on the balance of probabilities, it is more likely than not that Miss James failed to maintain accurate records in that she, on one or more occasions, did not complete a record of her meeting in the patient's progress notes as set out in Schedule L.

Charge 8b)

8. Failed to maintain accurate records in that you:

b) on one or more occasions, did not complete a record of your meeting within 24 hours as set out in Schedule M;

This charge is found proved.

In reaching this decision, the panel took into account Ms 1 and Ms 2's witness statements, the record keeping policy and records for the Children as set out in Schedule M; which includes four children.

The panel reminded itself that it had already determined that Miss James had a duty to keep accurate records.

Ms 1 states:

> '*The record keeping policy states that records must be updated within 24 hours of the clinical intervention occurring. However, when this happens she should make clear that she was writing these in retrospect.*'

This is confirmed in the record keeping policy, where it states:

> '• *Entries must be made within 24 hours of the events to which they relate, providing current information on the care and condition of the service user.*'

The panel noted Ms 1's statement with regard to Child 20:

> '*Ms James's diary says that she was this child on 22 June 2017 but the record in this patient's progress notes relates to 26 June 2017. As this aspect of her record is inaccurate it casts doubt on the rest of the record.* […]
>
> *On 28 June 2017, there was a record in her diary that she was going to see this child but no record with in the patient's progress notes. Instead there is a record that a further school nurse sent an email apologising for not being able to attend the core group meeting.*'

Ms 1 also states with regard to Child 23:

> '*Ms James saw this child on 23 May 2017 but did not write up the records of this interaction until 26 July 2017.*'

The panel noted that in the case of Child 23 the difference between Miss James seeing the child and recording was over two months.

The panel noted the documentary evidence provided to it and noted that many of the records of meetings made by Miss James were done so several days later that her diary suggests.

The panel was therefore satisfied, that on the balance of probabilities, it is more likely than not that Miss James failed to maintain accurate records in that she, on one or more occasions, did not complete a record of your meeting within 24 hours as set out in Schedule M;

Charge 8c)

8. Failed to maintain accurate records in that you:

c) *You did not make it clear that the record of your meeting with Child 22 was being made retrospectively;*

This charge is found proved.

In reaching this decision, the panel took into account Ms 1's witness statement, the RiO entry for Child 22, dated 21 June 2017.

The panel reminded itself that Ms 1 stated that in any entry it must be made clear that it has been written retrospectively.

The panel noted Ms 1's statement with regard to Child 22:

> '*Ms James recorded that she saw this child on 19 June 2017 when she updated this child's progress notes on 21 June 2017.*
>
> *The record keeping policy states that records must be updated within 24 hours of the clinical intervention occurring. However, when this happens she should make it clear that she was writing these in retrospect.*'

The panel noted the entry of the 21 June 2017 on RiO which states:

> '*Attended a Child Protection Conference at Juniper House See safeguarding assessment Form.*
>
> *The child in Need Meeting is on 13.07.2017 at Frederick Bremer School.*
> […]'

The panel was of the view that the entry did not reflect that it had been made retrospectively.

The panel was therefore satisfied, that on the balance of probabilities, it is more likely than not that Miss James failed to make it clear that the record of her meeting with Child 22 was being made retrospectively.

Charge 8d)

8. Failed to maintain accurate records in that you:

d) You did not complete a health review template for Child 37;

This charge is found proved.

In reaching this decision, the panel took into account Ms 1's witness statement, the RiO entry for Child 37.

The panel noted Ms 1's written statement:

> '*Ms James's diary says that she saw this child on 9 May 2017 but there is no entry within the progress notes of this patient to indicate that this happened and there was no health review template completed.*'

The panel noted that there were two entries on the RiO system for Child 37, dated 9 May 2017. The first was completed on 9 May 2017 and states:

> '*School Nurse telephoned mother to introduce my self* [sic] *to her as the new school nurse and gave mother contact details. School Nurse informed mother that she needed to carry out a health assessment and requested her permission. Mother gave me her permission.*'

The second entry is dated 4 September 2017, however, is backdated to 9 May 2017. It states:

> '*Permission given by mother* […] *at Henry Maynard School.*'

The panel noted that whilst the entry has various health assessments noted in it, no health review template was presented or linked to the RiO entry. The panel therefore concluded, in the absence of a health review template, that Miss James did not complete one for Child 37 on 9 May 2017.

The panel was therefore satisfied, that on the balance of probabilities, it is more likely than not that Miss James did not complete a health review template for Child 37.

Charge 9)

9. On health concerns being raised to you by Child 19, you:

a) Did not undertake any and/or sufficient action to investigate these concerns;
b) Did not liaise with the patient's General Practitioner and/or parents in respect of their symptoms and/or concerns being raised;
c) Did not refer the patient to their General Practitioner;
d) Did not undertake a further assessment of the patient;

This charge is found proved in its entirety.

The panel looked at charge 9 in its entirety.

In reaching this decision, the panel took into account Ms 1's witness statement and the School Nurse Job Description.

The panel reminded itself of its findings that Miss James had a duty to engage with external agencies and healthcare professionals. It also noted that it stated under clinical skills:

'• *Be aware of deviations from the normal in health and behaviour, and to intervene to protect vulnerable children and adults by prompt action, referral and working with other agencies as part of a specialist team.*'

The panel determined that it was Miss James' duty to take action and investigate concerns raised to her by Child 19, liaise with the child's GP and parents in respect of their symptoms and concerns, refer Child 19 to their GP and undertake further assessment of the child.

The panel noted Ms 1's statement regarding Child 19:

> '*The patient's progress notes show that Ms James saw this child on 22 June 2017 when they attended a drop in session she was providing a FBS. At the time, the patient told Ms James she was worried because her limbs were swelling without any identified underlying health condition to cause this. In my professional opinion, this is a very concerning case because it is so unusual and because swelling can indicate that the child is suffering potentially from a heart condition.*
>
> *As this child had approached Ms James, she had a duty to liaise with the child's GP and her parents, to put in place a plan to ensure this condition was identified and addressed as soon as possible. The child was at secondary school and therefore would most likely be considered Gillick competent (a term used in medical law to decide whether a child (under 16 years of age) is able to consent to his or her own medical treatment) to give her consent for Ms James to contact her GP without having to seek consent from the parents. There is no evidence that any of this took place and furthermore Ms James never saw this patient again.*
>
> *This is a very serious failure. As explained above, this could have been a serious heart condition. However, this patient's condition was being monitored by other health services and no harm was caused to her through Ms James's actions.'*

The panel noted that there is no evidence before it to demonstrate that Miss James took action and investigated the concerns raised to by Child 19, liaised with the child's GP and parents in respect of their symptoms and concerns or that she referred Child 19 to their GP and undertook further assessment of the child.

In the absence of any documentary evidence that Miss James undertook the necessary steps to further asses Child 19 and liaise with their GP and parents, the panel was satisfied, that is it more likely than not that Miss James, on health concerns being raised to her by Child 19, did not undertake any and/or sufficient action to investigate these

concerns; did not liaise with the patient's General Practitioner and/or parents in respect of their symptoms and/or concerns being raised; did not refer the patient to their General Practitioner; and did not undertake a further assessment of the patient.

Charge 10)

10. In respect of Child 20, you:

a) Failed to maintain accurate records in that you:
i) did not complete a record of your meeting with the patient on 22 June 2017 in their progress notes, or in the alternative;
ii) did not complete a record of your meeting within 24 hours of your meeting;
iii) incorrectly recorded that your meeting took place on 26 June 2017;
iv) did not make it clear that this record was being made retrospectively;

This charge is found proved in its entirety.

The panel looked at charge 10 in its entirety.

In reaching this decision, the panel took into account Ms 1's witness statement and the School Nurse Job Description and the record keeping policy.

The panel reminded itself that it had already determined that Miss James had a duty to record meetings with patients within 24 hours, and that retrospective entries need to be highlighted as such.

The panel noted Ms 1's statement with regard to Child 20:

> '*Ms James' diary says that she was this child on 22 June 2017 but the record in this patient's progress notes relates to 26 June 2017. As this aspect of her record is inaccurate it casts doubt on the rest of the record. This is a breach of her record keeping duty.*

On 28 June 2017, there was a record in her diary that she was going to see this child but no record within the patient's progress notes. Instead there is a record that a further school nurse sent an email apologising for not being able to attend the core group meeting.'

When looking at the documentary evidence the panel concluded that it corroborated Ms 1's assessment. It noted that the entry on the RiO system showed that the entry was written on the 26 June 2017. However the panel noted that Miss James met with the child on 22 June 2017. It concluded that this was more than 24 hours after seeing Child 20. The panel also noted that the entry was not clearly marked as being written retrospectively.

The panel was therefore satisfied, on the balance of probabilities, that it is more likely than not that in respect of Child 20, Miss James failed to maintain accurate records in that she did not complete a record of her meeting with the patient on 22 June 2017 in their progress notes, within 24 hours of her meeting; that she incorrectly recorded that their meeting took place on 26 June 2017; and that she did not make it clear that this record was being made retrospectively.

Fitness to practise

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

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

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

The NMC, in its written statement of case, 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 bore 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 NMC, in its written statement of case, invited the panel to find Miss James' fitness to practise impaired on the grounds that she has breached the fundamental tenets of the profession and has brought the reputation of the profession into disrepute. It is the NMC's case that the concerns raised relate to failures of basic nursing skills which placed a significant number of highly vulnerable children at serious risk of harm; failed to take any or any sufficient action to ensure the children received care and treatment; failed to provide this left vulnerable children without their needs supported. The NMC submitted that the concerns relate to a significant number of children over a prolonged period of time.

The NMC submitted that many of the breaches are capable of remediation. However, given the serious and prolonged nature of the allegations and Miss James' lack of engagement, insight and remediation, there is a high risk of repetition of her conduct in the future should she be allowed to practise unrestricted.

The NMC therefore invited the panel find current impairment on the ground of public protection. It also submitted that Miss James' actions were serious and that a finding of current impairment is required in order to maintain public confidence in the professions and to uphold proper professional standards. Members of the public would expect a registered nurse to take appropriate actions when dealing with highly vulnerable young children.

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

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.'

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

The panel was of the view that Miss James' actions did fall significantly short of the standards expected of a registered nurse, and that Miss James' 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

2 Listen to people and respond to their preferences and concerns

To achieve this, you must:

2.1 work in partnership with people to make sure you deliver care effectively

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

To achieve this, you must:

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

3.3 act in partnership with those receiving care, helping them to access relevant health and social care, information and support when they need it

8 Work cooperatively

To achieve this you must

8.1 respect the skills, expertise and contributions of your colleagues, referring matters to them when appropriate

8.2 maintain effective communication with colleagues

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

8.4 work with colleagues to evaluate the quality of your work and that of the team

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

To achieve this you must

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

10.2 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

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

13.2 make a timely referral to another practitioner when any action, care or treatment is required

17 Raise concerns immediately if you believe a person is vulnerable or at risk and needs extra support and protection

To achieve this you must

17.1 take all reasonable steps to protect people who are vulnerable or at risk from harm, neglect or abuse

17.2 share information if you believe someone may be at risk of harm, in line with the laws relating to the disclosure of information

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

23 Cooperate with all investigations

The panel appreciated that breaches of the Code do not automatically result in a finding of misconduct. However, the panel noted that the charges relate to widespread and repeated breaches in relation to keeping accurate records and completing them in a timely manner, as well as ensuring that safeguarding concerns are appropriately dealt with.

The panel noted Ms 1's statement:

'*Pupils that are referred to the nurse by the schools are identified by them as being vulnerable. A school does not have the ability to address these issues alone and need [sic] the advice of the school nurse in order to get other agencies, such as doctors or social worker in palace.*

[…]

Failure to meeting with them is serious because it means that the children are not having their needs met'

The panel was of the view that Miss James' omissions and acts were deliberate and active choices. It concluded that Miss James' failure to prioritise and her disregard of referrals for children, all of whom were receiving support, were very serious. The panel concluded that Miss James decided to not fulfil her job as described for a prolonged period of time. It concluded that Miss James' multiple omissions and actions represented serious misconduct which put vulnerable patients under her care at risk of serious harm. The panel also noted that Miss James was working as a Band 6 Senior Nurse at that time and had been working as a school nurse over a long period of time.

The panel noted the written statement by Ms 1:

'*It my professional opinion that Ms James was competent in relation to task orientated nursing skills. For example, she was very good at organising a programme of immunisation of the children at a particular school. However, I believe Ms James lacks a full appreciation of the role of a Band 6 Nurse.*

I have been managing teams of nurses since 1997 but I have never come across a nurse who has failed to perform her duties to the same extent that Ms James has My investigation, that prompted the NMC investigation, has revealed that there have been far more cases of patients impacted by her breach of her professional duties and associated omissions then I originally anticipated. I have personally found the number of these cases shocking.'

The panel concluded that Miss James made a conscious decision not to refer children, even when given specific 'office days' to attend to her outstanding record keeping.

The panel found that Miss James' omissions and actions did fall seriously short of the conduct and standards expected of a nurse and amounted, individually and collectively, to misconduct.

Decision and reasons on impairment

The panel next went on to decide if as a result of the misconduct, Miss James' fitness to practise is currently 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, they must make sure that their conduct at all times justifies both their patients' and the public's trust in the profession.

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

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

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

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

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

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

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

d) […]*'*

The panel finds that patients were put at a risk of real harm and that there was a potential of physical and emotional harm as a result of Miss James' misconduct. It agreed with the NMC's assessment that the misconduct identified relates to failures of basic nursing skills which placed a significant number of highly vulnerable children at serious risk of unwarranted harm. The panel was of the view that Miss James, as the first point of contact for school children, failed to take any action to ensure the children received the care and treatment required. The failure to provide this left these vulnerable children without their needs supported. The panel noted that there was no evidence of direct patient harm.

Miss James' misconduct had breached fundamental tenets of the nursing profession and therefore brought its reputation into disrepute.

Regarding insight, the panel concluded that Miss James has shown no insight or remorse into her misconduct. It took into account the witness statement of Ms 2 in which stated:

'*[PRIVATE]*

I was not in a position to take a view on this but I did discuss with HR that because of [Miss James]' lack of engagement I was only able to proceed with the information provided. As [Miss James] had been given numerous opportunities to engage in the investigation, the decision was made to proceed based on the information available. I exhibit the email I sent to Ms James confirming that if I did not her from her by 13 July 2018 I would have to proceed with the investigation without her input'

Further the panel noted Ms 1's written statement:

'*Whenever I discussed the issues raised in the complaints from FBS and from her colleagues, Ms James's* [sic] *response continually demonstrated a lack of recognition of the severity and seriousness of the concerns. Her body language and demeanour gave me the impression that she did not think that it was her problem but that it was because other colleagues did not like or understand her.*

I do not feel that she ever expressed any insight into the severity of the concerns nor did she ever apologise or appear to show an understanding of the potential impact these had.'

The panel was of the view that the consistent disengagement with the NMC and the local investigation demonstrate that Miss James has no insight and has not shown remorse.

[PRIVATE]

Therefore, the panel is of the view that there is a risk of repetition based on the lack of engagement, insight, remorse and remediation. 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.

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

Having regard to all of the above, the panel was satisfied that Miss James' 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 NMC Registrar to strike Miss James' name off the NMC register. The effect of this order is that the NMC register will show that Miss James has been struck off the NMC 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.

The panel noted that in the Notice of Meeting, dated 12 August 2021, the NMC had advised Miss James that it would seek the imposition of a suspension order for a period of twelve months if the panel found Miss James' fitness to practise currently impaired. However, the panel has determined that in the circumstances of this case, a suspension order would neither be proportionate nor appropriate.

Decision and reasons on sanction

Having found Miss James' 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 Sanction Guidance (SG). The decision on sanction is a matter for the panel independently exercising its own judgement.

The panel took into account the following aggravating features:

- Miss James showed a pattern of misconduct which was repeated over a prolonged period of time;
- The misconduct involved 46 highly vulnerable young children and their families who were relying on Miss James;
- Miss James was going through the Trust's support programme but despite full support from her colleagues, she continued to fail in her fundamental duties;
- Miss James exploited the autonomy of her senior position and thereby placed vulnerable children at risk;
- Miss James' lack of insight and remorse into her misconduct; and
- Miss James' lack of engagement with the investigation at local level and with her regulator, the NMC.

The panel also took into account the following mitigating features:

- [PRIVATE]

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 James'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 James' misconduct was not at the lower end of the spectrum and that a

caution order would be inappropriate in view of the issues identified. The panel decided that it would be neither proportionate nor in the public interest to impose a caution order.

The panel next considered whether placing conditions of practice on Miss James' registration would be a sufficient and appropriate response. The panel is mindful that any conditions imposed must be proportionate, measurable and workable. The panel took into account the SG, in particular:

- *No evidence of harmful deep-seated personality or attitudinal problems;*
- *Identifiable areas of the nurse or midwife's practice in need of assessment and/or retraining;*
- *No evidence of general incompetence;*
- *The conditions will protect patients during the period they are in force; and*

However, the panel considered that Miss James has not engaged with the NMC process or the hearing, despite the panel affording her several opportunities to do so. The panel was therefore of the view that there is no evidence that Miss James will engage positively with training or any conditions imposed. The panel was therefore of the view that there are no practical or workable conditions that could be formulated.

Furthermore, the panel concluded that the placing of conditions on Miss James' registration would not adequately address the seriousness of this case and would not protect the public and uphold the public interest.

The panel then went on to consider whether a suspension order would be an appropriate sanction. The SG states that a 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; and*

- *The Committee is satisfied that the nurse or midwife has insight and does not pose a significant risk of repeating behaviour;*

The panel was of the view that Miss James' case did not involve a single incident of misconduct. To the contrary, her misconduct was repeated over a period of seven months concerning 46 children. The panel was of the view that Miss James' persistent choices put vulnerable children at risk, and evidences a harmful deep-seated attitudinal problem which could have resulted in serious consequences. The panel was of the view that Miss James failed these children and their families and that through her actions and omissions, seriously damaged the trust and confidence the public has in the profession of the school nurse. Further, the panel is satisfied that Miss James has shown no remorse or insight into her misconduct and therefore there is a real risk of her repeating the misconduct found proved. The panel concluded that Miss James' misconduct raises serious questions regarding her professionalism.

The panel was of the view that Miss James had persistently failed to monitor and care for 46 children over a prolonged period of time. [PRIVATE] Finally, a local investigation occurred into her appalling lack of care, but Miss James refused to engage. She has shown no remorse for the risk she placed the vulnerable children at. Her colleagues had to pick up her shortfalls in her care, in addition to maintaining their own case load. The panel is of the view that the multiple omissions in her care were deliberate and were not simply because she forgot. Miss James blamed others for her failings, and yet she was an experienced, competent Band 6 nurse, the equivalent of a Ward Sister. The panel found her actions deplorable and this raises fundamental questions about her professionalism. It was of the view that the public would not wish for a nurse with such a callous disregard for the safety of highly vulnerable children to be allowed to continue to practise. The panel was of the view that to allow her to continue practising would undermine public confidence in the profession and in the NMC as a regulatory body. For all these reasons, the panel considered that a striking off order was appropriate and proportionate.

The panel considered that this order was necessary to mark the importance of maintaining public confidence in the profession, and to send to the public and the profession a clear message about the standard of behaviour required of a registered nurse.

This will be confirmed to Miss James in writing.

Interim order

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

Decision and reasons on interim order

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

The panel concluded that an interim conditions of practice order would not be appropriate or proportionate in this case, due to the reasons already identified in the panel's determination for imposing the substantive order. The panel therefore imposed an interim suspension order for a period of 18 months to cover the 28 day appeal period and any period of appeal.

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

That concludes this determination.